

HOUSE No. 2150

The Commonwealth of Massachusetts

PRESENTED BY:

Frank I. Smizik

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act preserving public trust rights in land affected by ocean erosion.

PETITION OF:

NAME:

Frank I. Smizik

DISTRICT/ADDRESS:

15th Norfolk

HOUSE No. 2150

By Mr. Smizik of Brookline, a petition (accompanied by bill, House, No. 2150) of Frank I. Smizik relative to preserving public trust rights in land affected by ocean erosion. Environment, Natural Resources and Agriculture.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 753 OF 2015-2016.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act preserving public trust rights in land affected by ocean erosion.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 35 of Chapter 91 of the General Laws, as appearing in the 2008
2 Official Edition, is hereby amended by inserting, after the last sentence of the first, the
3 following-

4 Where sea level rise, storms, or other natural processes have caused the landward or
5 lateral movement of a barrier beach into an area which was previously occupied by the bottom of
6 any Great Pond, the portion of the barrier beach relocated into the former bottom of the Great
7 Pond shall be and remain in public ownership. It being the intent of the foregoing sentence that
8 the application thereof to any property not be in violation of either Article 10 of the
9 Massachusetts Declaration of Rights or the Fourteenth Amendment of the United States
10 Constitution, the foregoing sentence shall not convert ownership of any private property to

11 public ownership, and, to the extent that applying the foregoing sentence to any private property
12 would have such an effect, the foregoing sentence shall not apply to such private property. As
13 used herein, “barrier beach” shall have the meaning ascribed thereto in Section 10.29 of Title
14 310 of the Code of Massachusetts Regulations or successor regulations. Upon petition of ten
15 citizens of the Commonwealth that a dispute exists with respect to the location of the former bed
16 of any Great Pond or other facts relevant to this section, the department and the attorney general
17 or a representative designated by the attorney general shall hold a public hearing and receive
18 such evidence thereon as may be presented to them and otherwise proceed in a manner consistent
19 with the procedures set forth in Section 18A of this Chapter.