

**SENATE . . . . . No. 419**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***James B. Eldridge***

*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 protecting the natural resources of the commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>	<i>1/24/2017</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>2/1/2017</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>	<i>2/1/2017</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>2/2/2017</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>2/2/2017</i>
<i>Barbara A. L'Italien</i>	<i>Second Essex and Middlesex</i>	<i>2/2/2017</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>2/2/2017</i>
<i>Kenneth J. Donnelly</i>	<i>Fourth Middlesex</i>	<i>2/2/2017</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>2/2/2017</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>	<i>2/2/2017</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>2/2/2017</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>2/3/2017</i>
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>	<i>2/3/2017</i>
<i>Cindy F. Friedman</i>	<i>Fourth Middlesex</i>	<i>10/3/2017</i>

**SENATE . . . . . No. 419**

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By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 419) of James B. Eldridge, Ruth B. Balser, Marjorie C. Decker, Paul R. Heroux and other members of the General Court for legislation to protect the natural resources of the commonwealth. Environment, Natural Resources and Agriculture.

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**The Commonwealth of Massachusetts**

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

An Act protecting the natural resources of the commonwealth.

*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. The General Laws are hereby amended by inserting after chapter 132B, the  
2 following chapter:-

3 CHAPTER 132C.

4 PUBLIC LANDS PRESERVATION ACT.

5 Section 1. Definitions. As used in this chapter, the following words, unless the context  
6 clearly requires otherwise, shall have the following meanings:-

7 "Article 97", Article 97 of the Articles of Amendments to the Constitution.

8 "Article 97 land", land or any interest in land, that is taken, acquired or otherwise  
9 dedicated for specific Article 97 natural resource purposes.

10 “Article 97 natural resource purposes”, the Article 97 purposes that are the conservation,  
11 development and utilization of the agricultural, mineral, forest, water, air and other natural  
12 resources.

13 "Change in use", a conversion of Article 97 land from a devoted or allowed use. A valid  
14 reserved use, including, but not limited to, any building or structure, shall be an allowed use if (i)  
15 declared when Article 97 land is taken, acquired or otherwise dedicated or (ii) established by  
16 special act.

17 "Disposition", any transfer, conveyance or release of a real property interest by a public  
18 owner whether by deed, covenant, easement, lease, or other instrument or lawful means. A  
19 transfer or release of the legal right of control or custody in land by a public owner shall be a  
20 disposition under this definition. The termination of a lease for the use of land shall not be a  
21 disposition under this definition. A revocable permit or license that authorizes another to use  
22 Article 97 land shall not be a disposition when (i) the use is consistent with devoted or allowed  
23 uses of the Article 97 land, to include, if a forest, harvesting conducted pursuant to an approved  
24 cutting plan; and (ii) the permit or license does not transfer or release a real property interest in  
25 the land.

26 “Executive office of environmental affairs”, the executive office of energy and  
27 environmental affairs established under section 1 of chapter 21A.

28 “Land”, land that is without or with water, including, but not limited to, estuaries, creeks,  
29 streams, rivers, ponds, lakes, marshes, floodplains, and wetlands; but, not including, (i) land  
30 lying seaward of the coastal mean high water mark, to include, tidelands, tide plains, and under  
31 coastal waters; (ii) land lying seaward from the highest spring water mark that are under coastal

32 wetlands and saltmarshes; (iii) land under coastal estuaries, and coastal ocean outlets of rivers  
33 and streams; and (iv) land under a Designated Port Area specified by the office of coastal zone  
34 management.

35 "Public owner", the commonwealth, its agencies, executive offices, departments, boards,  
36 commissions, bureaus, divisions, authorities, and political subdivisions, including, but not  
37 limited to, municipalities, counties, districts, and other governmental bodies and instrumentalities  
38 of the commonwealth, that hold Article 97 land.

39 "Real property interest" or "interest in land ", any ownership, or other legal interest or  
40 right in land, including, but not limited to, fee simple interest, easement, partial interest,  
41 remainder, future interest, right of legal control, lease; and conservation restriction, agricultural  
42 preservation restriction, watershed preservation restriction and historical preservation restriction  
43 as defined under section 31 of chapter 184; and non-development covenant or other covenant  
44 that protects natural resources.

45 "Replacement land", land or an interest in land, required under this chapter to be  
46 provided by a public owner to replace the loss of Article 97 land as a result of a disposition or  
47 change in use. Replacement land shall not include existing Article 97 land, unless taken,  
48 acquired or otherwise dedicated for the specific purpose to substitute other Article 97 land  
49 proposed for disposition or change in use.

50 "Secretary" or "secretary of environment affairs", the secretary of the executive office of  
51 energy and environmental affairs, or his authorized representative.

52 "State agency" a legal entity of state government established by the general court as an  
53 agency, board, bureau, department, office or division of the commonwealth with a specific

54 mission, which may either report to cabinet-level units of government, known as executive  
55 offices or secretariats, or be independent divisions or departments; and excluding those counties  
56 as defined under section 1 of chapter 7C.

57 "Taken" or "acquired", Article 97 land obtained by a public owner whether by gift,  
58 purchase, devise, grant, exchange, lease, eminent domain or otherwise.

59 Section 2. (a) To protect the natural resources of the commonwealth and to prevent a no  
60 net loss of Article 97 land, a public owner making a disposition or change in use of Article 97  
61 land shall acquire or otherwise provide replacement land. Replacement land for a disposition or  
62 change in use of Article 97 land shall be: (i) equal or greater in area, (ii) comparable or better in  
63 natural resource value, (iii) located within the same municipal boundaries if feasible, or nearby,  
64 and (iv) not less than the equivalent kind of the real property interest being replaced.

65 (b) A public owner when acquiring or providing replacement land, shall execute a written  
66 declaratory instrument that such land or interest in land is subject to protection under Article 97,  
67 and record the instrument in the registry of deeds for the county or district where the land is  
68 situated. The instrument when executed shall include the effective date of the Article 97 land  
69 protection; and a specific description of the Article 97 land and the restricted uses and allowed  
70 uses of the land. The failure of the public owner to execute or record a declaratory instrument  
71 shall not invalidate any existing Article 97 protection of such replacement land.

72 Section 3. (a) A public owner of Article 97 land shall notify the secretary when the public  
73 owner proposes making a disposition or change in use of the Article 97 land. Such notification  
74 shall be in writing and made in the manner, as the secretary by regulation shall prescribe, to  
75 include the information and documentation as required under subsection (c).

76           The secretary shall adopt regulations requiring notification by a public owner be made as  
77 early as practicable, and prior to the filing of a petition with the general court to authorize the  
78 proposed Article 97 land disposition or change in use, to allow the secretary adequate time to  
79 review the proposal. The review shall include any plan of the public owner to provide  
80 replacement land. Unless otherwise provided under this section, the notification to the secretary  
81 shall be required at least 20 days before the public owner makes a decision to adopt a proposal  
82 for a disposition or change in use of its Article 97 land.

83           For Article 97 land held by a municipality, such notification to the secretary shall be  
84 required not less than 30 days before a vote of town meeting or city council, whichever is the  
85 case, on the municipality's proposed disposition or change in use of the Article 97 land. If the  
86 Article 97 land is located outside the municipality's boundaries, then, in addition, the  
87 municipality shall make like notification to the local conservation commission where the land is  
88 sited.

89           For Article 97 land held by a state agency, notification to the secretary shall be required,  
90 in the time and manner as provided under subsection (a) of section 8.

91           The secretary shall post notification information received on Article 97 land proposals  
92 and replacement plans, on the public website of the executive office of environmental affairs.

93           (b) In the event, Article 97 land is to be taken by eminent domain, the authorized board  
94 acting for the public owner or other entity shall, within 10 days after adopting a lawful order of  
95 intention to take the land, notify the secretary of the proposed taking. Such notification shall be  
96 in writing, and made in the manner with any necessary information relevant to the taking of the  
97 land, as the secretary by regulation shall prescribe.

98 (c) Regulations to be adopted by the secretary shall require that notification of a proposed  
99 disposition or change in use of Article 97 land provide sufficient information about the proposal,  
100 its advantages and disadvantages to the public and the environment, and any feasible and  
101 practicable alternative to the proposed disposition or change in use. The regulations shall require  
102 notification include, but not be limited to, the following current information regarding the Article  
103 97 land proposed for disposition or change in use: (1) a description of the land including its  
104 location, natural resource uses and benefits, approximate size and boundaries, allowed uses, and  
105 buildings and structures thereon; (2) the property's fair market value based on its municipal  
106 assessment; (3) whether any part is designated an endangered species habitat, wetland, flood  
107 zone, public water supply protection or subject to the rivers protection act under chapter 258 of  
108 the acts of 1996; (4) a general description of abutting parcels; (5) owners holding a real property  
109 interest and description of each such respective interest; (6) copies of any deeds, easements,  
110 covenants, restrictions, declarations and other instruments that show (i) an owner's real property  
111 interest, and (ii) the land is to be used for a specific natural resource purpose; (6) a description of  
112 the proposed disposition or change in use and the reasons for the proposal, including anticipated,  
113 changes to the land and grantees of any transferred real property interest; (7) whether the public  
114 owner's acquisition of such Article 97 land was obtained (i) with funds, grants or loans from any  
115 federal, state or local source, or (ii) from a donation or bequest, on condition the gift be used for  
116 natural resource purposes; (8) copies of any relevant government issued approvals, orders and  
117 permits; and (9) alternatives considered to the proposed disposition or change in use.

118 The regulations adopted by the secretary shall also require that such notification provide  
119 information about the plan to acquire or provide replacement land to include, but not be limited  
120 to, the following: (1) the information listed in clauses (1) through (4), inclusive, of the prior

121 paragraph, provided the information shall be specific to the replacement land; (2) current  
122 condition and relevant prior uses of the land; (3) owners that will hold a real property interest in  
123 such land when acquired or provided, and a description of each respective interest; (4) the source  
124 of the replacement land to be acquired or provided, from any intended (i) purchase, (ii) taking by  
125 eminent domain, (iii) designation of a currently held real property interest, (iii) donation or  
126 bequest; or (iv) receipt of another real property interest or such consideration, in exchange for the  
127 disposition of the Article 97 land.

128 A public owner shall supplement the information about an Article 97 land proposal or  
129 plan to provide replacement land, as the secretary shall prescribe by regulation.

130 Section 4. (a) A public owner may request from the secretary a waiver to provide  
131 replacement land for a disposition or change in use of the public owner's Article 97 land,  
132 notwithstanding the requirements under subsection (a) of section 2. Upon the written request of  
133 the public owner, the secretary may grant a full or partial waiver releasing the public owner from  
134 any requirement to provide replacement land. In granting a waiver, the secretary may impose  
135 conditions, if necessary, to accomplish the intended purpose of the disposition or change in use  
136 of the Article 97 land. A decision by the secretary to grant or deny a waiver with any conditions  
137 shall be in writing and state the reasons for his decision. A waiver shall be limited to the  
138 following circumstances when the disposition or change in use of Article 97 land, will (1)  
139 transfer only legal or physical control in the land between state agencies to be held for Article 97  
140 natural resource purposes and if applicable, with the same reserved uses; (2) transfer only legal  
141 or physical control in the land between any department, division, board or agency of the same  
142 municipality to be held for Article 97 natural resource purposes and if applicable, with the same  
143 reserved uses; (3) transfer a lease for a natural resource purpose or use for a term not exceeding 5



144 years; (4) serve to largely protect, preserve or promote the natural resource purposes and uses of  
145 the land; (5) establish an easement to grade and alter elevations on the land to prevent erosion or  
146 provide lateral support to adjacent land; (6) grant an easement allowing for temporary use of the  
147 land for another purpose for a period not exceeding 5 years, provided upon its expiration, the use  
148 of the land will revert to the same Article 97 natural resource purposes and reserved uses in  
149 existence immediately prior to granting the easement; (7) grant an easement or lease for  
150 subterranean use of the land that will not affect adversely the dedicated Article 97 natural  
151 resource purposes of the land; (8) affect a land area not exceeding 2,500 square that is  
152 insignificant for Article 97 natural resource purposes, provided, if part of a larger parcel, no other  
153 disposition or change in use of that parcel has occurred within 5 years before making a waiver  
154 request to the secretary; or (9) transfer a real property interest of a public owner to another public  
155 owner that holds a real property interest in the same Article 97 land.

156           Notwithstanding any provision to the contrary, the secretary may grant a requested  
157 waiver for other circumstances authorized specifically under special law.

158           (b) The secretary when determining whether the square footage of required replacement  
159 land is sufficient, shall not include any aboveground area for an allowed use that is exclusively  
160 for other than natural resources purposes, located on the replacement land or subject Article 97  
161 protected land.

162           (c) The secretary as a condition in granting to the public owner a full or part waiver to  
163 provide replacement land under paragraph (6) of subsection (a) for the temporary use of land,  
164 may require a performance bond of satisfactory amount for any uncompleted restoration of the  
165 land be provided under the terms as specified by the secretary.

166 Section 5. The secretary shall provide to public owners, information and education on the  
167 policies, requirements and best practices to protect Article 97 land. To assist public owners, the  
168 secretary shall offer advice, guidance and technical assistance with the development of  
169 preliminary plans for the disposition or change in use of Article 97 land and replacement land  
170 alternatives. Such assistance shall include an assessment of the anticipated effect of regional  
171 climate change in the development of a proposed plan and any alternative options. Upon request  
172 of a public owner, the secretary shall make an evaluation of whether the public owner's  
173 preliminary plan or revision of the plan, complies with the Article 97 no net loss requirements  
174 under subsection (a) of section 2 and related regulations.

175 Section 6. (a) The secretary shall provide to the general court a written recommendation  
176 for the approval or disapproval of each legislative petition that proposes a disposition or change  
177 in use of Article 97 land. To the extent possible, the recommendation shall be made before the  
178 first scheduled public hearing of the petition by a joint legislative committee of the general court.  
179 The recommendation shall identify the petition and include, his opinion as to whether: (1) the  
180 disposition or change in use, including any required replacement land complies with the Article  
181 97 no net loss requirements under subsection (a) of section 2 and related regulations; (2) the  
182 disposition or change in use will benefit the public; (3) an alternative to the proposed disposition  
183 or change in use, is not practical or feasible based on the circumstances; and (4) the required  
184 replacement land will provide equal or greater public environmental benefits.

185 Additionally, the secretary shall include with his recommendation whether the legislation  
186 adequately identifies the subject Article 97 land, required replacement land, and, necessary dates,  
187 terms and conditions. In his statement of recommendation, the secretary shall detail his reasons  
188 for the approval or disapproval of the legislative petition. If insufficient information about a

189 proposed disposition or change in use of Article 97 land or replacement land precludes the  
190 secretary from giving a full opinion, the secretary shall make known this circumstance and  
191 reason in his recommendation.

192         The secretary shall adopt regulations establishing standards for providing  
193 recommendations to the general court on Article 97 land legislation. The regulations shall allow  
194 a recommendation of approval of such legislation, if the secretary's opinion agrees with the  
195 statements contained in clauses (1) through (4), inclusive of the first paragraph, and if not, he  
196 shall recommend the disapproval of the legislation. Notwithstanding any provision to the  
197 contrary, the secretary may recommend approval of the legislation, if he determines there are  
198 extraordinary circumstances for a proposed disposition or change in use of Article 97 land or  
199 plan for replacement land, provided (i) no practicable or feasible alternative exists for the  
200 proposed legislation, (ii) the proposed disposition or change in use of Article 97 land is for a  
201 necessary public purpose, (iii) the overall intent of the no net loss of Article 97 land will be  
202 attained upon completion of the proposed disposition or change of use the land or the plan to  
203 provide replacement land, and (iv) the secretary states the reasons for his determination in the  
204 recommendation.

205         (b) A legislative committee of the general court referred a petition related to Article 97  
206 land, may solicit from the secretary his recommendation on the legislation. The secretary shall  
207 respond to the request expeditiously, and in the manner, and using the standards and criteria set  
208 forth in the prior subsection.

209 (c) The secretary shall supplement his recommendation when Article 97 legislation is  
210 pending, if he determines there is a subsequent change or event that materially affects his prior  
211 response.

212 (d) The secretary shall post his recommendations on legislation on the public website of  
213 the executive office of environmental affairs.

214 Section 7. (a) A municipality in making a determination for a disposition or change in use  
215 of Article 97 land, to include a detailed plan to provide any required replacement land, shall first  
216 obtain the approval of its conservation commission. Approval by the commission shall require a  
217 2/3rds vote in support of the proposed disposition or change in use, at an open public meeting of  
218 the commission. No vote shall be held, unless, the commission has conducted a public hearing on  
219 the proposed disposition or change in use. The commission shall give public notice of such  
220 hearing, not less than 30 days before the scheduled hearing date; and, in addition shall provide  
221 written notice to the local regional planning agency.

222 Except, in the event the disposition or change in use of Article 97 land relates to,  
223 parkland under the legal control of its municipal park commission, or agricultural land under the  
224 legal control of its municipal agricultural commission, then approval shall be by vote of the  
225 respective commission under the same procedures and requirements in this subsection for  
226 conservation commissions.

227 (b) A municipality in making a determination for a disposition or change in use of Article  
228 97 land and after any approval required in subsection (a) shall obtain the approval of the city  
229 council or town meeting. If replacement land is required, a detailed plan to provide such land or  
230 land interest, shall be included as part of the approval determination by the city council or town

231 meeting. Such approval shall require a 2/3rds vote by the city council or a 2/3rds vote by an  
232 annual or special town meeting, whichever is the case, in support of the disposition or change in  
233 use, including any replacement land plan. Said vote shall be held at an open public meeting.

234 (c) When a municipality holds Article 97 land sited within the boundaries of another  
235 municipality, the conservation commission of the other municipality may make a  
236 recommendation to the secretary on any proposed disposition or change in use of the Article 97  
237 land. Before making a recommendation, the commission shall hold a public hearing on the  
238 proposal in the municipality, and provide reasonable notice. A commission's recommendation to  
239 approve or disapprove the proposed disposition or change in use shall be in writing and include a  
240 statement on the proposal's local environment impacts with the reasons for its determination.  
241 Approval of a recommendation shall require a majority vote of the commissioners in support at  
242 an open meeting of the commission. Any such recommendation to the secretary shall be made no  
243 later than 45 days after receiving notification from the municipal owner of the Article 97 land.

244 Section 8. (a) When the public owner is state agency that holds Article 97 land, the  
245 executive head of such agency or the secretary of the executive office in which such agency is  
246 located, shall make the initial proposal for a disposition or change in use of such Article 97 land,  
247 including a plan to provide replacement land. Such proposal shall be made in writing to the  
248 commissioner of capital asset management and maintenance, and, if not making the proposal, the  
249 secretary of environmental affairs.

250 Notwithstanding any other law to the contrary, the commissioner within 60 days of  
251 receipt of the proposal, shall, conduct a public hearing with the secretary to consider the  
252 proposed Article 97 land disposition or change in use, and any required replacement land plan in

253 accordance with this section. The public hearing shall be in the municipality where the Article 97  
254 protected land is located. The commissioner with approval of the secretary of environmental  
255 affairs may waive the public hearing when the proposed disposition or change in use of the  
256 Article 97 land: (i) for land other than a public park, affects a land area not exceeding 11,000  
257 square feet, (ii) affects a land area of a public park not exceeding 11,000 square feet, provided  
258 the area does not exceed 20 percent of the total square footage of the park parcel, (iii) transfers  
259 the land with any existing reserved uses to another state agency to be held for the same or similar  
260 Article 97 natural resource purposes, (iv) establishes a temporary easement related to  
261 construction or natural resource project, (v) establishes an easement to alter land grades affecting  
262 small portions of the parcel, or (vi) allows reserved uses pertaining to small buildings or  
263 structures with a combined total footprint not exceeding 2,500 square feet in area.

264           The commissioner shall provide notice of such hearing at least 30 days prior to any  
265 determination regarding the proposal, including whether the proposal has any current or  
266 foreseeable, direct public use or benefit. Such notice of the public hearing shall be posted in the  
267 central register and on the public website of the executive office environmental affairs. Notice of  
268 the public hearing shall also be placed at least once each week for 4 consecutive weeks prior to  
269 the hearing, in newspapers with sufficient circulation to inform the people in the locality where  
270 the land protected under Article 97 is situated.

271           In the event the hearing is waived or not required, the commissioner and secretary of  
272 environmental affairs shall accept written comments for a period of 21 days. Public notice of the  
273 comment period shall be posted in the central register and on the public website of the executive  
274 office of environmental affairs.

275           Within 30 days after any required hearing or comment period, the secretary shall make a  
276 determination whether the proposed disposition or change in use of Article 97 land and any  
277 replacement land plan, complies with the Article 97 no net loss requirements under subsection  
278 (a) of section 2. Such determination shall be in writing, and give the reasons for his decision  
279 with any recommendations or comments about the proposal. The secretary shall provide a copy  
280 of the determination to the commissioner, secretary of administration and finance and state  
281 agencies affected by the proposal; and shall post the determination on the public website of the  
282 executive office of environmental affairs.

283           Section 9. (a) When the public owner is a regional conservation district that holds Article  
284 97 land that it has proposed for disposition or change in use, the supervisors of the conservation  
285 district shall approve such disposition or change in use, and any plan to provide replacement  
286 land. Such approval shall require a 2/3rds vote by the supervisors in support of the disposition or  
287 change in use, and any replacement land plan, to be held at an open meeting. No vote shall be  
288 held, unless, the supervisors first conduct a public hearing on the proposed disposition or change  
289 in use and replacement land plan. Such public hearing shall, be conducted in the municipality  
290 where the land protected under Article 97 is located. The chairman of the district supervisors  
291 shall provide public notice of the hearing, not less than 30 days before the scheduled hearing  
292 date.

293           (b) When the public owner is a county government not abolished by chapter 34 or other  
294 law, which holds Article 97 land that it proposes for disposition or change in use, the county  
295 commissioners shall approve such disposition or change in use, and any plan to provide  
296 replacement land. Such approval shall require a 2/3rds vote by the commissioners in support of  
297 the disposition or change in use, and any replacement land plan, to be held at an open meeting.

298 No vote shall be held, unless, the commissioners conduct a public hearing on the proposed  
299 disposition or change in use and replacement land plan. The commissioners shall give public  
300 notice of such hearing, not less than 30 days before the scheduled hearing date.

301 (c) When a public owner, other than a municipality, state agency, conservation district, or  
302 unabolished county government, holds Article 97 land it proposes for disposition or change in  
303 use, the public owner shall conduct a public hearing not less than 30 days prior to its final  
304 determination on the proposal and any plan to provide replacement land. A final determination  
305 for the purposes of this subsection shall be a vote of an authorized board, commission or other  
306 body of the public owner or a decision by the public owner's executive officer, whichever is the  
307 case, to authorize the proposed disposition or change in use of Article 97. The hearing shall be  
308 conducted in the municipality where the protected Article 97 land is situated. The public owner  
309 shall give public notice of such hearing not less than 30 days before the scheduled hearing date.

310 Section 10. For any public notice required under sections 8 and 9, written notice shall  
311 also be provided to: for each city or town in which the land protected under Article 97 is located,  
312 the city manager in the case of a city under Plan E form of government, the mayor and city  
313 council in the case of all other cities, the chairman of the board of selectmen in the case of a  
314 town; and the regional planning agency; and the representative members of the general court.

315 Section 11. A public owner having made a disposition or change in use of Article 97 land  
316 shall notify the secretary, when related to such disposition or change: (i) an instrument is  
317 recorded in the registry of deeds affirming the Article 97 protection of replacement land, (ii) a  
318 grant of a temporary easement in the Article 97 land terminates; or (iii) an event or act completes



319 the Article 97 land disposition or change in use. Such notification shall be made provided in the  
320 manner, and include any relevant information, as the secretary shall prescribe.

321 Section 12. The secretary shall prepare a comprehensive report annually describing the  
322 work of the executive office of environmental affairs relative to the protection, and disposition  
323 and change in use of Article 97 land in the commonwealth for the preceding year. Said report  
324 shall include, but, not limited to, the (i) aggregate number of Article 97 land related notifications  
325 received, reviews conducted and opinions provided (ii) a general description of replacement land  
326 required to prevent a no-net loss of Article 97 land and, (iii) total acreage of Article 97 land that  
327 became protected or lost protection. The annual report shall be filed with the clerks of the house  
328 of representatives and senate and with the chairmen of the joint committee on environment,  
329 natural resources and agriculture and shall be posted on the public website of the executive office  
330 of environmental affairs on or before, the first Wednesday of May.

331 Section 13. (a) Whenever a public owner's Article 97 land is taken by eminent domain,  
332 replacement land required shall be limited by the total value of the award for damages sustained  
333 by the public owner resulting from the land taking. The value of land conveyed or transferred to  
334 the public owner to replace the loss of Article 97 land, and that may be, partially or entirely, in  
335 lieu of damages, shall be considered an award for damages for the purpose of this section.

336 (b) A public owner upon receiving the entire damage award for Article 97 land taken by  
337 eminent domain shall be responsible to provide or acquire suitable replacement land. Before  
338 acquiring or proving any required replacement land, the public owner shall consult with the  
339 secretary to review the planned replacement land. The secretary in his review shall determine  
340 whether the land complies with the Article 97 land no net loss requirements under subsection (a)

341 of section (2); and, after taking into consideration the limitations on the value of replacement  
342 land under the prior subsection. The secretary may grant a full or partial waiver to provide  
343 replacement land when the public owner's Article 97 land is taken under eminent domain for use  
344 by another public owner to be protected as Article 97 land. Notwithstanding, if the monetary  
345 portion of a damage award is not of sufficient amount to acquire or provide any required  
346 replacement land, upon the public owner's request, the secretary may approve using the monies  
347 for other public natural resource purposes.

348 (c) A public owner shall provide to the secretary relevant information about planned  
349 replacement land, as the secretary shall prescribe by regulation.

350 (d) Notwithstanding any special or general law to the contrary, when land is to be  
351 conveyed or transferred to a public owner to replace land taken by eminent domain under section  
352 7M of chapter 81 or other general law, then the secretary, if the land taken had been subject to  
353 Article 97, shall first approve the land conveyance or transfer.

354 Section 13. The secretary shall establish a self-subscribing email notification delivery  
355 system for the executive office of environmental affairs to send informational emails to the  
356 public and government organizations about proposed dispositions of Article 97 land and  
357 recommendations of the secretary on related legislation.

358 Section 14. The provisions of this chapter shall not apply to a disposition or change in use  
359 of Article 97 land, ordered or enjoined by a court or justice of a court.

360 SECTION 2. Within 1 year after this act takes effect, the secretary shall adopt regulations  
361 for the administration and enforcement of this chapter.

SECTION 3. This act shall take effect on January 1, 2018.