

HOUSE No. 5087

The Commonwealth of Massachusetts

PRESENTED BY:

Sarah K. Peake

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 authorizing the commissioner of capital asset management and maintenance to grant an easement in the town of Wellfleet.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>	<i>3/16/2022</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>	<i>3/24/2022</i>

HOUSE No. 5087

By Ms. Peake of Provincetown, a petition (subject to Joint Rule 12) of Sarah K. Peake and Julian Cyr (by vote of the town) that the commissioner of Capital Asset Management and Maintenance be authorized to grant an easement in the town of Wellfleet. State Administration and Regulatory Oversight. [Local Approval Received.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act authorizing the commissioner of capital asset management and maintenance to grant an easement in the town of Wellfleet.

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. Notwithstanding sections 32 to 37, inclusive, of chapter 7C of the General
2 Laws or any other general or special law to the contrary, the Commissioner of Capital Asset
3 Management and Maintenance, in consultation with the Commissioner of conservation and
4 recreation, may convey, for no monetary consideration, a permanent nonexclusive easement to
5 Judith Blakeley Life Estate, Richard Blakeley, Remainderman, and Blackfish Creek Shellfish
6 Company in a portion of a certain parcel of land located within the town of Wellfleet, under the
7 care and control of the Department of Conservation and Recreation and held for conservation
8 and recreation purposes, described in a deed recorded with the Barnstable County Registry of
9 Deeds in book 3377, page 069. The easement may be granted solely for purposes of a curb cut
10 for vehicular access, the benefited land being described in a deed recorded with the Barnstable
11 County registry of deeds in book 15500, page 50, and shall be subject to the further requirements

12 of this act and subject to such additional terms and conditions consistent with this act as the
13 Commissioner of Capital Asset Management and Maintenance may prescribe in consultation
14 with the Department of Conservation and Recreation.

15 The easement described in this section shall be comprised of XXX square feet of land,
16 more or less, identified as “ _____ ” as shown on the plan of land entitled
17 “ _____ ” dated _____, prepared by _____. The plan shall be filed with
18 the Department of Conservation and Recreation and to be recorded with the Barnstable County
19 registry of deeds along with the easement.

20 Modifications to the easement description set forth in the plan and the plan may be made
21 by the division of capital asset management and maintenance for conformance with this act. The
22 easement shall be granted without warranties or representations by the Commonwealth.

23 SECTION 2. Notwithstanding any general or special law to the contrary, the
24 Commissioner of conservation and recreation may grant a license or permit for nominal
25 consideration to Judith Blakeley Life Estate to provide Judith Blakeley Life Estate with use and
26 occupation of the above referenced parcel, and liability and responsibility for such use and
27 occupation, and, for the purposes of this act, such licenses or permits shall govern until the grant
28 of easement authorized in this act takes effect.

29 SECTION 3. No easement instrument conveying, by or on behalf of the Commonwealth,
30 the easement described in Section 1 shall be valid unless such easement instrument provides that
31 the easement shall be used solely for the purposes described in said Section 1. The easement
32 instrument shall include a clause that shall state that if the easement ceases to be used by the
33 grantees, or their successors or assigns, for the purposes described in section 1 at any time, the

34 easement shall terminate and all rights shall revert to the Commonwealth under the care and
35 control of the Department of Conservation and Recreation, upon such terms and conditions as
36 the Commissioner may determine.

37 SECTION 4. The fair market value of the easement described in Section 1, or the value
38 in use as proposed, shall be based on independent professional appraisals, as commissioned by
39 the Commissioner of Capital Asset Management and Maintenance. Judith Blakeley Life Estate
40 shall compensate the Commonwealth in an amount greater than or equal to the full and fair
41 market value, or the value in use of the easement as proposed, whichever is greater, as
42 determined by the independent appraisals, plus the reasonable cost of such appraisal. All money
43 paid to the Commonwealth by Judith Blakeley Life Estate as a result of the conveyances
44 authorized by this section shall be deposited in the General Fund. The Commissioner of Capital
45 Asset Management and Maintenance shall submit the appraisals and a report thereon to the
46 inspector general for review and comment. The inspector general shall review and approve the
47 appraisals and the review shall include an examination of the methodology utilized for the
48 appraisals. The inspector general shall prepare a report of the review and file the report with the
49 Commissioner of Capital Asset Management and Maintenance for submission by the
50 Commissioner to the house and senate committees on ways and means and the Senate and House
51 chairs of the Joint Committee on State Administration and Regulatory Oversight. The
52 Commissioner shall submit copies of the appraisals, the report thereon and the inspector
53 general's review and approval, and comments, if any, to the House and Senate Committees on
54 Ways and Means and the Senate and House chairs of the Joint Committee on State
55 Administration and Regulatory Oversight prior to the execution of the conveyance authorized by
56 this Act.

57 SECTION 5. As a condition of the conveyance authorized in Section 1, Judith Blakeley
58 Life Estate shall, in addition to any compensation from Judith Blakeley Life Estate to the
59 Commonwealth required pursuant to Section 3, compensate the Commonwealth for the easement
60 described in this act through the transfer to the Department of Conservation and Recreation of
61 land or an interest therein or funding for the acquisition of land or an interest therein equal to or
62 greater than the appraised value of the easement as determined pursuant to this act. The fair
63 market value of any land or interest in land proposed to be conveyed to the Department pursuant
64 to this Section shall be included within the appraisal required by Section 3. The land or interest
65 therein or funding shall be acceptable to the Department of Conservation and Recreation and any
66 land or interest therein, whether conveyed by Judith Blakeley Life Estate or acquired by the
67 department, shall be permanently held and managed for conservation and recreation purposes by
68 the department. All payments made to the Commonwealth pursuant to this section shall be
69 deposited in the Conservation Trust established in Section 1 of chapter 132A of the General
70 Laws.