

HOUSE No. 5373

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, April 13, 2026.

The committee on State Administration and Regulatory Oversight, to whom was referred the petition (accompanied by bill, House, No. 3599) of Mark Harding relative to certain easements at Chappaquiddick, Dudley, Gay Head, Herring Pond and Mashpee, reports recommending that the accompanying bill (House, No. 5373) ought to pass.

For the committee,

ANTONIO F. D. CABRAL.

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**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act relative to certain easements.

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

1 PREAMBLE. By Chapter 463 of the Acts of 1869, the Legislature enfranchised all
2 Native American Indians and declared that they were citizens of the Commonwealth, entitled to
3 all the rights, privileges and duties of other citizens. The Act also affirmed that lands previously
4 set off to any Indian were to become the property of such person and his heirs in fee simple.
5 Thereafter, various acts were adopted for the disposition of common lands at Aquinnah and
6 Mashpee. The previously set off lands and the lands divided from the common lands were
7 intended to have the full rights and benefits of property ownership, including the right to
8 reasonable residential use and access.

9 SECTION 1. Notwithstanding any general or special law to the contrary, lots created for
10 the Native American Indians at Aquinnah and Mashpee, and the lots created from the partition of
11 common lands in those former Indian districts, shall be deemed to have been granted in fee
12 simple absolute with no restraint on alienation. If express easements do not exist for such lots,
13 the superior court shall have jurisdiction to establish forty-foot wide easements to a public way
14 over public lands, including land held by any land bank, for vehicular access and underground

15 utilities to such lots. If public lands are not available to provide an express easement to any such
16 lot, new forty-foot wide easements shall be created to the nearest public way by the superior
17 court, with the court establishing all the necessary parties required for an equitable resolution.
18 Such easements shall be considered ways that were in existence when the subdivision control
19 law became effective in the city or town in which the land lies, providing sufficient frontage,
20 width, suitable grades and adequate construction to support the needs of vehicular traffic in
21 relation to the residential use of the land, for adequate public safety and for the installation of
22 underground utilities to serve such land and the buildings erected or to be erected thereon. The
23 frontage of the easements shall be of such distance as is required by zoning or other ordinance or
24 by-law, to allow for residential dwellings on such lots.

25 SECTION 2. (a) This act shall not encumber or apply to any lands currently owned by
26 any federally recognized tribe, whether held in fee or in trust by the United States of America.

27 (b) This act shall not apply to any lands that may be acquired by any federally recognized
28 tribe in the future, whether through purchase, transfer, or placement into trust status.

29 (c) Nothing in this act shall be construed to affect federal jurisdiction over tribal trust
30 lands or any federally recognized tribe's sovereign authority over its lands.

31 (d) Nothing in this act shall be construed to grant the Commonwealth jurisdiction over
32 Indian lands in derogation of federal law or any federally recognized tribe's sovereign authority.

33 SECTION 3. This act shall take effect upon passage.