

**HOUSE . . . . . No. 4346**

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**The Commonwealth of Massachusetts**

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The committee on Ways and Means, to whom was referred the Bill authorizing the lease of land to yacht clubs (House, No. 4252) reports recommends that the same ought to pass with an amendment substituting therefor the accompanying bill (House, No. 4346).

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For the committee,

Charles A. Murphy

# The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

## An Act AUTHORIZING THE LEASE OF LAND TO YACHT CLUBS.

*Whereas*, the deferred operation for this act would tend to defeat its purpose, which is forthwith to make to provide for the lease of property used by non-profit yacht clubs and other non-profit organizations operating boating programs, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*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 40E to 40I of chapter 7 of the General Laws or  
2 any other general or special law to the contrary, the commissioner of the division of capital asset  
3 management and maintenance may, in consultation with the commissioner of the department of  
4 conservation and recreation, lease or enter into other agreements for a term not to exceed 30  
5 years with an organization currently operating a yacht club or other boating facility on public  
6 park land under the care and control of said department of conservation and recreation for the  
7 state-owned buildings and facilities together with the land and appurtenances associated  
8 therewith used by said yacht clubs or boating organization as shown in existing records of said  
9 department. This authorization shall only apply to the following yacht clubs and other boating  
10 organizations and facilities: the Union Boat Club, Boston; the Cambridge Boat Club, Cambridge;  
11 the Riverside Boat Club, Cambridge; the Buckingham, Browne & Nichols Boat House,  
12 Cambridge; the M.I.T. Boat House, Cambridge; the Belmont Hill/Winsor Boat House,  
13 Cambridge; the Tufts University, Medford; the Harvard Sailing Pavilion, Cambridge; the Boston  
14 University Sailing Pavilion, Boston; the M.I.T. Sailing Pavilion, Cambridge; the Puritan Canoe  
15 Club, Boston; the Neponset Valley Yacht Club, Milton; the Wollaston Yacht Club, Quincy; the

16 Squantum Yacht Club, Quincy; the South Shore Yacht Club, Weymouth; the Charlesgate Yacht  
17 Club, Cambridge; the Charles River Yacht Club, Cambridge; the Newton Yacht Club, Newton;  
18 the Columbia Yacht Club, Boston; the South Boston Yacht Club, Boston; the Riverside Yacht  
19 Club, Medford; the Medford Boat Club, Medford; the Mystic Wellington Yacht Club, Medford;  
20 the Watertown Yacht Club, Watertown; the East Boston Yacht Club, Boston; the Dorchester  
21 Yacht Club, Dorchester; the Boston Harbor Yacht Club, Boston; the Blessing of the Bay Boat  
22 House, Somerville; and the Boston University DeWolfe Boat House, Cambridge. Prior to  
23 entering into a lease or other agreement pursuant to this section the commissioner of the division  
24 of capital asset management and maintenance shall, in consultation with the commissioner of the  
25 department of conservation and recreation, determine the exact boundaries of each parcel after  
26 completion of a survey.

27         There shall be, at the discretion of the division of capital asset management and  
28 maintenance in accordance with the original contract terms and conditions or contract terms and  
29 conditions more favorable to the commonwealth, an option for extension of said lease or other  
30 agreement for 5 years.

31 SECTION 2. Notwithstanding sections 40E to 40I of chapter 7 of the General Laws or any other  
32 general or special law to the contrary, such leases or other agreements executed pursuant to  
33 section 1 shall be on terms and conditions and consideration acceptable to the commissioner of  
34 the division of capital asset management and maintenance after consultation with the  
35 commissioner of the department of conservation and recreation; provided, however, that said  
36 lease or other agreement shall provide, without limitation, that: (i) the lessees shall manage,  
37 operate, improve, repair and maintain the state-owned buildings and facilities together with the  
38 land and appurtenances associated therewith during the term of the lease; (ii) the lessee shall  
39 carry comprehensive general liability insurance naming the commonwealth as a co-insured,  
40 protecting the commonwealth against all claims for personal injury or property damage arising  
41 from the state-owned buildings and facilities together with the land and appurtenances associated  
42 therewith during the term of the lease; (iii) the lessee shall provide appropriate public access to  
43 public park land; (iv) the lessee shall be responsible for outreach and stewardship; and (v) the  
44 lessee shall not design or construct any facilities on the parcel without the written approval of the  
45 commissioner of the division of capital asset management and maintenance and the

46 commissioner of the department of conservation and recreation; provided, however, that the  
47 commissioner of the division of capital asset management and maintenance and the  
48 commissioner of the department of conservation and recreation shall not approve any design or  
49 construction project pursuant to this clause unless said commissioners have determined that  
50 lessee has sufficient financial resources to complete the project. In determining the consideration  
51 for any lease or other agreement pursuant to this section, the commissioner of capital asset  
52 management and maintenance, in consultation with the commissioner of the department of  
53 conservation and recreation, shall develop a methodology for setting a fair rental payment and  
54 with due regard to the criteria used by the department of conservation and recreation for setting  
55 existing permit fees for yacht and boating facilities identified in section 1. If a specific lessee  
56 does not agree with the rental payment methodology, then the consideration for the lease of that  
57 specific parcel shall be the full and fair market value of the parcel as determined by the  
58 commissioner of the division of capital asset management and maintenance, in consultation with  
59 the commissioner of the department of conservation and recreation, pursuant to 1 or more  
60 independent professional appraisals contracted by the division.

61 SECTION 3. The lease or other agreement shall be prepared in accordance with generally  
62 accepted real estate principles and policies of the division of capital asset management and  
63 maintenance. The inspector general shall review and approve the lease or other agreement, and  
64 his review shall include an examination and approval of the methodology used to determine the  
65 consideration for each lease. The commissioner shall, 30 days prior to the execution of any lease  
66 or other agreement authorized pursuant to this act, submit the lease to the inspector general for  
67 review. The inspector general shall prepare a report of his review of the lease or other agreement  
68 and consideration methodology and file the report with the commissioner of the division of  
69 capital asset management and maintenance, the commissioner of the department of conservation  
70 and recreation the house and senate committees on ways and means and the chairmen of the joint  
71 committee on state administration and regulatory oversight at least 15 days prior to the execution  
72 of said lease or other agreement. All consideration received pursuant to a lease or other  
73 agreement executed pursuant to this act shall be deposited in the General Fund.

74 SECTION 4. Each lessee shall be responsible for all costs and expenses, including but not  
75 limited to, costs associated with any engineering, surveys, appraisals and lease preparation

76 related to the lease or other agreement authorized pursuant to this act as such costs may be  
77 determined by the commissioner of the division of capital asset management and maintenance.

78 SECTION 5. Notwithstanding any other general or special law to the contrary, the provisions of  
79 any general or special law or rule or regulation relating to the advertising, bidding or award of  
80 contracts, to the procurement of services or to the construction and design of improvements shall  
81 not be applicable to any lessee under this act.

82 SECTION 6. Notwithstanding any other general or special law to the contrary, if any of the  
83 properties described in section 1 cease to be used at any time for the public purposes described in  
84 this act, or is used for any purpose other than the public purposes stated in this act, the  
85 commissioner of the division of capital asset management and maintenance shall give written  
86 notice to the lessee of the unauthorized use. The lessee shall, upon receipt of the notice, have 30  
87 days to respond and a reasonable time to establish an authorized use of the parcel. If an  
88 authorized use of the parcel is not thereafter established, the lease shall terminate.