# SENATE . . . . . No. 1862

## The Commonwealth of Massachusetts

SENATE, May 14, 1987.

The committee on Natural Resources & Agriculture, to whom was referred the petition (accompanied by bill, Senate, No. 1684) of Nicholas J. Costello for legislation to authorize the purchase and lease by the Executive Office of Environmental Affairs of storm-damaged coastal property reports the accompanying bill (Senate, No. 1862).

For the committee,

NICHOLAS J. COSTELLO.

# The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Seven.

AN ACT AUTHORIZING THE PURCHASE AND LEASE BY THE DEPARTMENT OF CAPITOL PLANNING AND OPERATIONS OF STORM-DAMAGED PROPERTY.

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

SECTION 1. Definitions.

For the purposes of this chapter, the following definitions shall apply: —

"One hundred year floodplain": The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Maps (FHBM), or the Flood Insurance Rate Maps (FIRM), or any other documentation.

"Areas of Special Flood-related erosion hazard": The land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the FHBM, FIRM, or any other documentation.

"Regulatory floodways": The channel of a river or other watercourse and the adjacent land areas that must be reserved on order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

SECTION 2. The Department of Capital Planning and Operations, hereinafter referred to as the acquiring agency, is authorized, subject to the provisions of this act, to acquire by voluntary purchase from the record owner thereof, land for the purposes of recreation and conservation, abutting or adjacent to areas subject to the ebb and flow of the tide or on barrier beaches or in velocity zones of floodplain areas, or in one hundred year floodplains, or in areas of special flood-related erosion hazard, or in regulatory floodways, on which buildings, substantially and repeatedly damaged by severe weather, are or were located, and

11 such areas contiguous thereto as may be deemed necessary by the
12 acquiring agency. Any acquisition pursuant to this section shall
13 be considered acquisition within the meaning of chapter 79A of
14 the General Laws, and all benefits available pursuant to said
15 chapter shall be available to the owner to the extent that such
16 benefits have not been paid by any other government agency.

1 SECTION 3. The acquiring agency shall develop a recreation
2 and conservation management plan for said land, after
3 consultation with the city or town in which said land is located,
4 before any acquisition occurs. Said management plan shall set
5 forth the priority, description and location of lands to be acquired,
6 and any land management agreement reached between said
7 agency and the city or town for local responsibility to carry out
8 the development and management of said property.

1 SECTION 4. No such land shall be acquired until after a public
2 hearing has been held by the acquiring agency in the city or town
3 in which such land is situated to consider the management plan.
4 The mayor and city council or board of selectmen, planning board
5 and conservation commission, if any of said city or town shall
6 be notified of such hearing.

1 SECTION 5. Whenever the acquiring agency deems it
2 necessary to make appraisals, surveys, soundings, borings, test
3 pits or other related examinations to obtain information to carry
4 out the purposes of this act, said agency, its authorized agent or
5 employees may, after due notice by registered mail, enter upon
6 lands, water and premises, not including buildings, in the
7 Commonwealth for the purpose of making appraisals, surveys,
8 soundings, borings, test pits and other related examination as they
9 may deem necessary or convenient for the purpose of this act, and
10 such entry shall not be deemed a trespass. The acquiring agency
11 shall make reimbursement of any injury or actual damage
12 resulting to such lands, water and premises caused by an act or
13 its authorized agents or employees and shall so far as possible
14 restore such lands to the same condition as prior to the making
15 of such appraisals survey, soundings, borings, test pits or other
16 related examinations.

SECTION 6. The acquiring agency is hereby authorized to expend such sums as may be available from any source, including the bonds authorized by section 6 of this act, to carry out the purposes of section 1, including expenses in connection therewith and the cost of planning therefor and the development, redevelopment and improvement thereof.

SECTION 7. To meet a portion of the expenditures authorized by section 2, the state treasurer shall, upon the request of the governor, issue and sell at public or private sale bonds of the commonwealth, registered or with interest coupons attached, as he may deem best to an amount to be specified by the governor from time to time, but not exceeding, in the aggregate, the sum of ten million dollars. The allocation of said sum shall be made by the secretary of the Department of Capital Planning and Operations to an agency designated by him in his office. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face Coastal Area Acquisition Loan, Act of 1983, and shall be on the serial payment for such maximum term of years, not exceeding twenty years, as the governor may recommend to the general court pursuant to section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, the maturities thereof to be so arranged that the amounts payable in the several years of the period of amortization other than the final year shall be as nearly equal as in the opinion of the state treasurer as is practicable to make them. Said bonds shall bear interest semi-annually at such rate as the state treasurer, with the approval of the governor, shall fix. The initial maturities of such bonds shall be payable not later than one year from the date of issue thereof and the entire issue not later than.

SECTION 8. This act shall be in addition to any other bond authorization, appropriation or authority to acquire land available to any agency of the commonwealth.

SECTION 9. Further, the secretary of the acquiring agency acting for and on behalf of the commonwealth is hereby authorized to lease to cities and towns, on a form approved by

4 the attorney general, for a period of twenty-five (25) years or less
5 certain property conveyed to the commonwealth by individuals
6 of towns or cities under section one of this act or by the federal
7 emergency management agency pursuant to 42 USC 4001, section
8 1362 of Pub. L. 90-448 as amended, for use as recreation and
9 conservation areas. Leases shall be in such form and contain such
10 provisions as the secretary of the executive office of environmental
11 affairs shall determine including such terms and conditions which
12 are necessary to comply with laws in relation to the protection
13 of barrier beaches. Leased land shall be granted upon the express
14 conditions that the land be used for recreation/conservation
15 purposes only, that no permanent structures be erected and if the
16 leased land is to be used as such, or if provisions of a lease are
17 not complied with, the lease shall terminate.

1 SECTION 10. In consideration for the granting of a lease as
2 provided for in section seven, a city or town shall agree to maintain
3 acquired land as clean, safe and orderly recreation and/or
4 conservation areas.

1 SECTION 11. In addition to the conditions and requirements
2 set forth in this chapter, the Department of Capital Planning and
3 Operations shall promulgate such rules and regulations as are
4 deemed necessary to effectuate the purpose of this chapter.

1 SECTION 12. This act shall take effect upon passage.