

# HOUSE . . . . No. 2806

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, September 19, 1951.

The committee on Ways and Means, to whom was referred the Bill establishing airport approach zones for the General Edward Lawrence Logan Airport (Senate, No. 687), report that the same ought to pass in the form of a new draft herewith submitted (House, No. 2806).

For the committee,

JOHN J. TOOMEY.

## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty-One.

### AN ACT ESTABLISHING AIRPORT APPROACH ZONES FOR THE GENERAL EDWARD LAWRENCE LOGAN AIRPORT.

*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. As used in this act, unless the context  
2 otherwise requires —

3 “Airport” means the General Edward Lawrence  
4 Logan Airport.

5 “Airport approach zone” means any air space  
6 defined and shown as such zone, or upon a map on  
7 file in the office of the state secretary on August first,  
8 nineteen hundred and fifty-one, entitled Map of  
9 Approach Zones, General Edward Lawrence Logan  
10 Airport, Boston, Mass.

11 “Airport hazard” means any structure or tree which  
12 extends into any airport approach zone.

13 “Commission” means Massachusetts Aeronautics  
14 Commission.

15 “Structure” means any object constructed or in-  
16 stalled by man, including any object regulated or  
17 licensed under other provisions of law.

18 “Tree” means a tree or any other object of natural  
19 growth.

1 SECTION 2. It is hereby declared to be the policy  
2 of the Commission that the existence of any airport

3 hazard endangers the lives and property of users of  
4 the airport, and of occupants of land in its vicinity,  
5 and effects a reduction of the area available for the  
6 landing, taking-off and maneuvering of aircraft, thus  
7 tending to impair the utility of the airport and the  
8 public investment therein. Accordingly, it is neces-  
9 sary in the interest of the public health, safety and  
10 general welfare that the creation, establishment or  
11 maintenance of airport hazards be prevented by exer-  
12 cise of the police power, without compensation to  
13 any person except as hereinafter specifically provided.

1 SECTION 3. There are hereby established for the  
2 General Edward Lawrence Logan Airport the airport  
3 approach zones defined and shown upon the map  
4 described in section one. The commission is hereby  
5 authorized, after due notice and hearing, to make  
6 rules and regulations to explain said map and the  
7 markings thereon, and from time to time to amend  
8 them, after like notice and hearing. Any person  
9 aggrieved by any such rule or regulation, or by any  
10 order issued by the commission under the provisions  
11 of this act may, within thirty days after such order,  
12 appeal to the superior court sitting in equity, for the  
13 purpose of having the legality thereof determined.  
14 Upon such appeals said court may make such orders  
15 and decrees as justice and equity may require, and  
16 parties to such appeals shall have all rights of appeal  
17 and exception as in other equity proceedings.

1 SECTION 4. The commission may, subject to appro-  
2 priation, take by eminent domain, or acquire by pur-  
3 chase or otherwise, any airport hazard or the land on  
4 which it stands or both.

1 SECTION 5. No person shall erect or permit to be  
2 erected or maintained an airport hazard as defined  
3 herein, but may be restrained from so doing by the  
4 superior court sitting in equity. If any structure  
5 erected after the date of the passage of this act con-  
6 stitutes an airport hazard, the commission shall order  
7 its owner, at his own expense, to remove, lower, or  
8 otherwise reconstruct the same, or to equip it with  
9 markers or lights. Notice of such order shall be sent  
10 by registered mail to the owner of the land upon which  
11 such hazard stands, addressed in the same manner as  
12 the notice of his last preceding annual real property  
13 tax, unless a different owner or a different address is  
14 known by said commission to be the correct one, and  
15 if such owner shall neglect or refuse to comply with  
16 such order for thirty days, or within such further time  
17 as the commission may allow, the commission shall  
18 cause such airport hazard to be lowered, removed,  
19 reconstructed or equipped in accordance with said  
20 order. The commission shall certify the expense so  
21 incurred with respect to each parcel of land to the  
22 assessors of the city of Boston, and the assessors shall  
23 assess such expense upon its owner; such expense  
24 shall be included in his taxes and constitute a lien  
25 upon the land, and all laws relating to the collection  
26 and the abatement of taxes and to interest thereon  
27 shall apply to such expense. Except as herein other-  
28 wise provided, no damages shall be recovered by any  
29 person erecting such airport hazard after the date of  
30 the passage of this act.

1 SECTION 6. If any tree is allowed to grow in such  
2 manner as to become an airport hazard, the commis-  
3 sion may request its owner to remove or trim it so

4 that it will no longer constitute such a hazard, and  
5 if he neglects or refuses to comply with such request  
6 within sixty days, may enter upon his land and re-  
7 move or trim said tree without expense to him.

1 SECTION 7. Any notice required to be given under  
2 the provisions of sections three to eight, inclusive,  
3 shall be given to every person having any interest of  
4 record in any property referred to in said notice.

1 SECTION 8. Any person claiming damage to his  
2 property by reason of the establishment of airport  
3 approach zones hereby, or by reason of any rule,  
4 regulation or order of the commission made here-  
5 under, may, if no provision has otherwise been made  
6 herein for his relief, within ninety days after the  
7 promulgation or issuance of such rule, regulation or  
8 order, as the case may be, petition the superior court  
9 for a determination of the question of whether or not  
10 said establishment of airport approach zones, or such  
11 rule, regulation or order, constitutes, as to him, an  
12 unreasonable exercise of the police power. If said  
13 court finds in the affirmative upon such question, an  
14 easement in his property shall be deemed to have  
15 been taken by the commission as of the date of such  
16 finding, and the applicable provisions of chapter  
17 seventy-nine of the General Laws shall thereafter gov-  
18 ern his rights. The decision of said court upon such  
19 petition shall be subject to all rights of appeal and  
20 exception as in other actions in equity. Any person  
21 who fails seasonably to take advantage of the provi-  
22 sions of this section shall not thereafter be permitted  
23 to petition for the assessment of damage to his  
24 property.

1 SECTION 9. No vessel shall be moored, except at  
2 a wharf, pier or dock, so that any part of it constitutes  
3 an airport hazard, and any moored vessel any part  
4 of which constitutes such a hazard shall be lighted as  
5 prescribed by rules and regulations of the United  
6 States civil aeronautics administration in effect at the  
7 time of such mooring.

1 SECTION 10. Chapter four hundred and twelve of  
2 the acts of nineteen hundred and thirty-nine is hereby  
3 repealed.

1 SECTION 11. The provisions of this act are hereby  
2 declared to be severable, and if any such provision, or  
3 the application of any such provision to any person or  
4 circumstance shall be held to be invalid or unconsti-  
5 tutional, such invalidity or unconstitutionality shall  
6 not be construed to affect the validity or constitu-  
7 tionality of any of the remaining provisions of this  
8 act, or the application of such provision to persons or  
9 circumstances other than those to which it is so held  
10 invalid or unconstitutional. It is hereby declared to  
11 be the legislative intent that this act would have been  
12 passed had such provision not been included therein.

1 SECTION 12. This act shall take effect on January  
2 first, nineteen hundred and fifty-two.



