

HOUSE No. 4088

The Commonwealth of Massachusetts

PRESENTED BY:

Paul W. Mark

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 Division of Capital Asset Management and Maintenance to convey a certain easement in the town of Savoy.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>	<i>7/21/2021</i>
<i>Adam G. Hinds</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>	<i>7/21/2021</i>

HOUSE No. 4088

By Mr. Mark of Peru, a petition (subject to Joint Rule 12) of Paul W. Mark and Adam G. Hinds that the commissioner of Capital Asset Management and Maintenance be authorized to convey a certain easement to the town of Savoy. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

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

An Act authorizing the Division of Capital Asset Management and Maintenance to convey a certain easement in the town of Savoy.

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

1 (1) Notwithstanding sections 32 to 37, inclusive, of chapter 7C of the General Laws or
2 any other general or special law to the contrary, the commissioner of capital asset management
3 and maintenance, in consultation with the commissioner of conservation and recreation, may
4 grant to the town of Savoy, for consideration as provided in section (2), an easement for the
5 purposes of installing, operating, maintaining and repairing communications infrastructure
6 enclosed by a security fence, consisting of a guyed wood utility pole and associated wires,
7 anchor rods and wireless internet antennas and an adjacent equipment shelter on a concrete slab,
8 with all rights necessary and incidental thereto, subject to such additional terms and conditions
9 consistent with this act as the commissioner of capital asset management and maintenance may
10 prescribe in consultation with the department of conservation and recreation over certain land
11 currently held in the care, custody and control of the department of conservation and recreation
12 with an area of approximately 2,500 square feet located off Tower Road approximately 200 feet

13 north of the Savoy Fire Tower on Borden Mountain in the Savoy State Forest. The exact location
14 of the easements to be granted over the land described in this section shall be determined by the
15 commissioner after completion of a survey, in consultation with the department of conservation
16 and recreation.

17 (2) In consideration for the easement authorized in section (1), the town of Savoy shall
18 compensate the commonwealth through: (i) the transfer of land or an interest in land to the
19 department of conservation and recreation, with a value equal to or greater than the full and fair
20 market value of the easement described in said section (1), or its value in use as proposed,
21 whichever is greater, as determined by independent appraisal; (ii) a sum of money equal to the
22 full and fair market value of the easement or its value in use as proposed, whichever is greater, as
23 determined by independent appraisal; or (iii) through some combination thereof. The exact
24 boundaries of the property interests to be conveyed to the commonwealth pursuant to this
25 section, if any, shall be determined by the commissioner of capital asset management and
26 maintenance, in consultation with the commissioner of conservation and recreation, after
27 completion of a survey. The commonwealth shall not be obligated to pay any consideration to
28 the town if the appraised value of any parcels or interests conveyed under this section exceeds
29 the value of the easements in section (1).

30 (3) The value of the easement described in section (1) and the value of any property
31 interests to be conveyed to the commonwealth pursuant to section (2) shall be determined by an
32 independent appraisal prepared in accordance with the usual and customary professional
33 appraisal practice by a qualified appraiser commissioned by the commissioner of capital asset
34 management and maintenance, in consultation with the commissioner of conservation and
35 recreation. The commissioner of capital asset management and maintenance shall submit any

36 appraisals to the inspector general for review and comment. The inspector general shall review
37 and approve any appraisals and the review shall include an examination of the methodology
38 utilized for the appraisals. The inspector general shall prepare a report of such review and file the
39 report with the commissioner of capital asset management and maintenance for submission by
40 the commissioner to the house and senate committees on ways and means and the joint
41 committee on state administration and regulatory oversight. The commissioner shall submit
42 copies of the appraisals and the inspector general's report to the house and senate committees on
43 ways and means and the joint committee on state administration and regulatory oversight not less
44 than 15 days before the execution of the instrument effecting the grant of the easement described
45 in section (1).

46 (4) No instrument granting the easement described in section (1) shall be valid unless it
47 provides that the easement shall be used solely for the purposes described in said section (1). The
48 grant of easement shall stipulate that the easement shall terminate if the property ceases to be
49 used for the express purposes set forth in the instrument granting the easement, upon such terms
50 and conditions as the commissioner of the division of capital asset management and maintenance
51 may determine, following notice of such to the grantee by the division of capital asset
52 management and maintenance and a failure by the grantee to cure the violation to the satisfaction
53 of the division.

54 (5) The town of Savoy shall be responsible for all costs associated with engineering,
55 surveys, appraisals, document preparation and other expenses deemed necessary by the
56 commissioner of capital asset management and maintenance to convey the easements described
57 in section (1).