

HOUSE No. 4224

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, November 20, 2019.

The committee on Ways and Means, to whom was referred the Bill authorizing the release of certain land in the town of Cummington from the operation of an agricultural preservation restriction (House, No. 3651), reports, recommending that the same ought to pass with an amendment substituting therefor the accompanying bill (House, No. 4224).

For the committee,

AARON MICHLEWITZ.

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**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act authorizing the release of certain land in the town of Cummington from the operation of an agricultural preservation restriction.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to release forthwith a certain agricultural preservation restriction held by the commonwealth, 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. (a) Notwithstanding sections 32 to 37, inclusive, of chapter 7C of the
2 General Laws or any general or special law to the contrary, the commissioner of capital asset
3 management and maintenance, in consultation with the commissioner of agricultural resources,
4 may execute a certificate of release for a portion of a certain parcel of land subject to an
5 agricultural preservation restriction granted to the commonwealth by the trustees of the
6 Massachusetts Farm and Conservation Lands Trust in an instrument dated December 12, 1983,
7 recorded in Hampshire county registry of deeds at book 2413, page 73. The parcel is shown as
8 “Parcel A” on a plan entitled “Plan of Land in Cummington, Massachusetts Prepared For Town
9 of Cummington”, dated May 21, 2018, prepared by Holmberg & Howe Land Surveyors and

10 contains approximately 33,075 square feet to be filed with the Hampshire county registry of
11 deeds.

12 (b) The parcel authorized for release pursuant to subsection (a) is more particularly
13 bounded and described, according to said plan, as follows:

14 Beginning at a point at a stone wall intersection at the northwest corner of land of the
15 town of Cummington known as the Bryant cemetery said point being N 24°24'21" E 135.73 feet
16 from the southwest corner of the Bryant cemetery on the northeasterly side of Trow road; thence,
17 N 24°24'21" E through land of Russel L. Sears, Jr. & Russell L. Sears, III as trustees of the
18 Bryant farm realty trust 138.02 feet to an iron pin to be set at the northwest corner of said parcel
19 A; thence, S 63°30'43" E through said land of Bryant farm realty trust 233.89 feet to an iron pin
20 to be set at the northeast corner of parcel A; thence, S 21°06'06" W through said land of Bryant
21 farm realty trust 140.73 feet to a point at the stone wall intersection at the northeast corner of
22 said Bryant cemetery; thence, N 62°59'41" W along a stone wall and said Bryant cemetery
23 242.10 feet to the point of beginning.

24 (c) Except as partially released by this act, the agricultural preservation restriction shall
25 remain in full force and effect.

26 (d) The parcel authorized for release pursuant to subsection (a) shall only be used for
27 cemetery purposes and the department of agricultural resources shall be notified if the land under
28 the agricultural preservation restriction is affected by the construction of the cemetery.

29 (e) If the parcel authorized for release pursuant to subsection (a) is sold or transferred to
30 an entity or person for purposes other than the cemetery purposes or ceases to be used for
31 cemetery purposes by the current or future owner, the agricultural preservation restriction shall

32 be reimposed on the parcel, unless said restriction has been released or discharged by the
33 commonwealth in its entirety. This provision shall be included in the certificate of release and
34 shall run with the land.

35 SECTION 2. As a condition for the release authorized in section 1, an updated appraisal
36 shall be obtained to determine the fair market value of the parcel subject to release. The appraisal
37 shall conform to the appraisal standards of the department of agricultural resources and shall be
38 satisfactory to the commissioner of agricultural resources and the commissioner of capital asset
39 management and maintenance. If an updated appraisal cannot be obtained, the department of
40 agricultural resources may determine the fair market value in a manner satisfactory to the
41 commissioner of capital asset management and maintenance.

42 SECTION 3. (a) To ensure a no-net-loss of protected open space and as a condition of the
43 release authorized in section 1, the town of Cummington shall dedicate for conservation purposes
44 under Article XCVII of the amendments to the constitution of the Commonwealth and under the
45 care and control of the conservation commission of the town of Cummington, a certain parcel of
46 town-owned land located on West Cummington road, consisting of approximately 5.1 acres,
47 more or less, shown as "Parcel A" in a plan entitled "Plan of Land in Cummington,
48 Massachusetts Prepared for Knud H. Simonsen" dated March 7, 1978, recorded in the Hampshire
49 county registry of deeds in book 115, page 34 and taken by the town of Cummington pursuant to
50 an order of taking dated March 25, 2011 recorded with the Hampshire county registry of deeds in
51 book 10528, page 162.

52 (b) The town of Cummington shall provide an appraisal for the parcel described in
53 subsection (a) to determine the fair market value. The appraisal shall conform to the appraisal

54 standards of the department of agricultural resources and shall be satisfactory to the
55 commissioner of agricultural resources and the commissioner of capital asset management and
56 maintenance. If the fair market value of the parcel is less than the fair market value of the parcel
57 authorized for release pursuant to section 1, the town of Cummington shall compensate the
58 commonwealth in an amount equal to the difference. Any sums due under this section shall be
59 paid by the town of Cummington to the department of agricultural resources for deposit into the
60 Agricultural Preservation Restriction Mitigation Expendable Trust Fund to be used to acquire
61 new agricultural preservation restrictions, including due diligence costs, pursuant to the rules and
62 regulations of the department.