

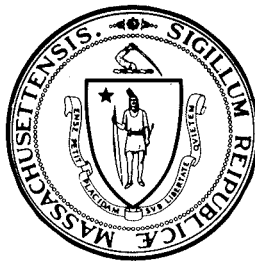
**ACTS**  
AND  
**RESOLVES**  
PASSED BY THE  
**General Court of Massachusetts**  
IN THE YEAR

**1985**

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**VOLUME 1**

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The General Court, which was chosen November 6, 1984 assembled on Wednesday the first day of January 1985 for its first annual session.

His Excellency Michael S. Dukakis continued to serve as Governor for the political year of 1985.

ACTS, 1985. – Chap. 277.

General Laws are hereby repealed.

Approved September 18, 1985.

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Chapter 277. AN ACT TO IMPLEMENT THE SETTLEMENT OF GAY HEAD INDIAN LAND CLAIMS.

Be it enacted, etc., as follows:

**SECTION 1.** It is hereby found and declared that:–

(a) there is pending before the United States Court for the District of Massachusetts a civil action that involves Indian claims to certain lands within the town of Gay Head;

(b) pendency of this lawsuit has resulted in severe economic hardships for the residents of the town of Gay Head by clouding the titles to much of the land in said town, including lands not involved in the lawsuits;

(c) the general court shares with the United States and the parties to the lawsuit a desire to remove all clouds on titles resulting from such Indian land claims; and

(d) the parties to the lawsuit and others interested in the settlement of Indian land claims within the commonwealth executed a settlement agreement which requires implementing legislation by the Congress of the United States and by the general court.

**SECTION 2.** For the purpose of this act, the following words shall have the following meanings:

(a) "Tribal council", the Wampanoag Tribal Council of Gay Head, Inc.;

(b) "Lawsuit", means the actions entitled Wampanoag Tribal Council of Gay Head, et al v. Town of Gay Head, et al., C.A. No. 74-5826-McN (D. Mass.).

(c) "Private settlement lands", approximately one hundred and seventy-five acres of privately held land described in paragraph 6 of the settlement agreement that are to be acquired by the Secretary of the Interior from certain private landowners;

(d) "Public settlement lands", the lands described in paragraph 4 of the settlement agreement that are to be conveyed by the Town of Gay Head to the tribal council;

(e) "Settlement lands", those lands defined in clauses (c) and (d);

(f) "Settlement agreement", the document entitled "Joint Memorandum of Understanding concerning Settlement of the Gay Head, Massachusetts Indian Land Claims", executed as of November nineteenth, nineteen hundred and eighty-three and November twentieth, nineteen hundred and eighty-three, by representatives of the parties to the lawsuit, as filed with the state secretary, or any extension or renewal thereof;

(g) "Cook lands", the lands described in paragraph 5 of the settlement agreement that are to be conveyed by the town of Gay Head to the Tribal council.

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**SECTION 3.** Notwithstanding any general or special law to the contrary, the town of Gay Head is hereby authorized to convey to the Tribal council, or an appropriate subsidiary, the Cook lands and the public settlement lands.

**SECTION 4.** All federal, state, and town laws shall apply to the settlement lands subject only to the following special provisions:–

(a) The settlement lands shall not be treated as real property subject to taxation pursuant to chapter fifty-nine of the Massachusetts General Laws, or any successor provision of law, but the Tribal council or any successor in interest will make payments in lieu of property taxes to the town of Gay Head or other appropriate entity if and when improvements are placed on those lands. The quantity of land subject to such payments in connection with each improvement shall be the minimum land area established by the density requirements of the town zoning ordinance for such an improvement. The amount of such payment shall be determined by assessing the value of the improvement and the value of the land attributable to such improvement, as determined in accordance with this section, and applying the town property tax rate or any other applicable tax rates just as though the improvements and attributable land were held by any private person. With respect to in-lieu payments that remain unpaid, neither the town nor any other person shall have the right of foreclosure against the settlement lands. Instead of its right of foreclosure, the town or any other person otherwise entitled to foreclosure may enforce a lien against other assets of the Tribal council or any subsidiary thereof, or any other entity controlled by the Tribal council. If the in-lieu payments are not fully paid three years after they are due, the town may seize the land and improvements on which the in-lieu payments are in arrears and lease such land and improvements on reasonable terms for periods of time not to exceed five years, the sums realized from such leases to be applied, after costs, to the payment of the amount in arrears. Seizure by the town under this provision shall in no way affect title to the land, which shall remain with the Tribal council, and at the expiration of any lease period during which all arrearages have been paid in full, control of the land and improvements shall be returned to the Tribal council.

(b) The Tribal council or any successor in interest will have the right, after consultation with appropriate state and local officials, to establish its own regulations concerning hunting, but not trapping or fishing, by Indians on the settlement lands by means other than firearms or crossbow. These regulations by the Tribal council need not conform to state or local law, but shall impose reasonable standards of safety for persons and protection of wild life, and the absence of such safety regulations shall be deemed unreasonable. These safety and protection standards shall be subject to review for reasonableness in an action in the superior court and may be enforced by state and local law enforcement officers. Hunting by firearm or crossbow shall remain subject to state law.

(c) The zoning and subdivision ordinances and regulations of the town of Gay Head shall not be applicable to the settlement lands except to the

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extent and in the manner provided in the settlement agreement. The settlement lands shall be subject to the land use plan made a part of the settlement agreement which shall be enacted as part of the zoning ordinance of the town of Gay Head, and such plan as embodied in the zoning ordinance may be amended only with the agreement of the Tribal council or any successor in interest, and by the town of Gay Head at two town meetings not less than one month apart, at least one of which shall be held during the month of July or August.

(d) The zoning laws of the town of Gay Head which are currently in force shall continue to apply to the Cook lands and any changes in those zoning laws shall apply to the Cook lands only if adopted in the manner provided by the settlement agreement.

**SECTION 5.** Except as provided in this act, all laws, statutes and bylaws of the commonwealth, the town of Gay Head, and any other properly constituted legal body, shall apply to all settlement lands and any other lands owned now or at any time in the future by the Tribal council or any successor organization.

**SECTION 6.** This act shall take effect upon enactment of legislation by the United States providing for extinguishment of aboriginal and all other Indian tribal land claims in the town of Gay Head which are maintained under laws of the United States that are specifically applicable to transfers of land or natural resources from, by or on behalf of any Indian nation or tribe of Indians, provided that the conveyance of the Cook lands and the public settlement lands authorized by section three shall take effect upon the actual extinguishment of such aboriginal and other Indian tribal land claims.

Approved September 18, 1985.