

THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2547 Session of  
2006

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INTRODUCED BY LEDERER, MARCH 17, 2006

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REFERRED TO COMMITTEE ON STATE GOVERNMENT, MARCH 17, 2006

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AN ACT

1 Authorizing the Department of General Services, with the  
2 concurrence of the Department of Environmental Protection, to  
3 lease land within the bed of the Delaware River within the  
4 City of Philadelphia.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Lands within the Delaware River bed.

8 (a) Authorization.--The Commonwealth of Pennsylvania owns  
9 the lands within the bed of the Delaware River, a portion of  
10 which lands are located in the 5th Ward of the City of  
11 Philadelphia, and includes lands commonly known as Pier 40  
12 North. The Department of General Services, with the concurrence  
13 of the Department of Environmental Protection, acting on behalf  
14 of the Commonwealth, is hereby authorized to lease to Pier  
15 34/40, L.P. (hereinafter "lessee") for an initial term up to 99  
16 years, land within the bed of the Delaware River in the City of  
17 Philadelphia and to extend the period for all or any portion of  
18 the leased premises for an additional term of up to 99 years.

1 (b) Description.--The land to be leased is more particularly  
2 described as follows:

3 All that certain lot or piece of land situate in the 5th Ward  
4 of the City of Philadelphia, Pennsylvania and more particularly  
5 described as follows:

6 Beginning at a point on the Southeasterly side of Penn Street  
7 (60 feet wide) which point is measured South 43 degrees 30  
8 minutes West along the said Southeasterly side of Penn Street  
9 the distance of 282 feet 6 inches from a point formed by an  
10 intersection of the said Southeasterly side of Penn Street and  
11 the Southwesterly side of Laurel Street (50 feet wide); thence  
12 extending from said point of beginning South 46 degrees 30  
13 minutes East the distance of 738 feet 8 1/2 inches to a point on  
14 the Delaware River Pierhead Line established January 5, 1894  
15 approved by Secretary of War September 10, 1940; thence  
16 extending South 48 degrees 13 minutes 7 seconds West along the  
17 Delaware River Pierhead Line the distance of 188 feet 3 1/8  
18 inches to a point; thence extending North 46 degrees 30 minutes  
19 West partly passing within the bed of a 10 feet wide alley by  
20 Deed (which extends Northwestwardly to the said Southeasterly  
21 side of Penn Street) the distance of 723 feet 2 5/8 inches to a  
22 point on the said Southeasterly side of Penn Street; thence  
23 extending North 43 degrees 30 minutes East along the said  
24 Southeasterly side of Penn Street and crossing the bed of the  
25 said 10 feet wide alley by Deed the distance of 187 feet 7 1/2  
26 inches to a point, being the first mentioned point and place of  
27 beginning. Excepting, however, such portion of said described  
28 parcel situate on the Northwesterly side of the Bulkhead Line of  
29 the Delaware River established January 5, 1894, and approved by  
30 the Secretary of War September 10, 1940.

1 As surveyed on June 29, 1981, by Lawrence J. Cleary, Surveyor  
2 and Regulator of the 3rd District.

3 (c) Lease agreement.--The lease and any other documents  
4 hereby contemplated shall be approved by the Attorney General  
5 and shall be executed by the Department of General Services,  
6 with the approval of the Department of Environmental Protection,  
7 in the name of the Commonwealth. The lease shall grant the  
8 lessee, and all successors, assigns and sublessees, the right to  
9 use the above-described premises, or to assign the lease or  
10 sublease or permit the sublease of the above-described premises  
11 for the purposes of development, consistent with public and/or  
12 maritime uses, for residential, office, commercial, condominium,  
13 hotel, marina or other uses.

14 (d) Sublease.--The Department of General Services, with the  
15 concurrence of the Department of Environmental Protection,  
16 acting on behalf of the Commonwealth of Pennsylvania, is also  
17 specifically authorized to enter into one or more nondisturbance  
18 agreements with any sublessee of the premises described in this  
19 act pursuant to which the Commonwealth will agree that, if the  
20 Commonwealth succeeds to the interest of the sublessor under the  
21 sublease, it will not terminate the sublease unless the  
22 sublessee is in default.

23 (e) Land use restriction.--All leases authorized or referred  
24 to under this act shall be made under and subject to the  
25 condition, which shall be contained in the lease documents, that  
26 no portion of the parcels shall be used as a licensed facility  
27 as defined in 4 Pa.C.S. § 1103 (relating to definitions) or any  
28 other similar type of facility authorized under the laws of this  
29 Commonwealth. The condition shall be a covenant running with the  
30 land and shall be binding upon the lessee and sublessees and

1 their respective successors and assigns. Should any portion of  
2 any parcel authorized to be leased under this act be used in  
3 violation of this subsection, the lease shall terminate  
4 immediately.

5 (f) Improvements.--

6 (1) The Department of General Services, with the  
7 approval of the Attorney General, is hereby authorized to  
8 execute, on behalf of the Commonwealth of Pennsylvania, any  
9 declaration or other document necessary to submit these  
10 premises or any portion thereof and any improvements thereon  
11 to the provisions of 68 Pa.C.S. Pt. II Subpt. B (relating to  
12 condominiums) as a leasehold condominium.

13 (2) Development of the parcels authorized to be leased  
14 herein shall be consistent with public and maritime uses.

15 (3) The lessee, all sublessees and their respective  
16 successors and assigns shall provide and maintain at least  
17 the following free public access to the riverfront for  
18 fishing and other recreation activities and free public  
19 parking in connection with such access:

20 (i) Public walkways on the riverfront, including  
21 water edge promenades along the entire water edge of the  
22 leasehold and adjacent to the water and providing free  
23 public access to the water and allowing for passive and  
24 active recreational activities year-round and signage  
25 indicating the walkways are open to the general public.

26 (ii) A free public park area along the public  
27 walkway near the water.

28 (iii) A minimum of ten free public parking spaces  
29 available at all times located proximate to the public  
30 walkway near the water edge and signage indicating the

1 free public parking.

2 (4) Should the lessee, any sublessee or any of their  
3 respective successors or assigns wish to modify the public  
4 access and parking required by this paragraph, it must obtain  
5 the prior written approval of the Department of Environmental  
6 Protection and the Department of General Services, which  
7 approval shall not be unreasonably withheld. The public  
8 access and parking shall be completed and open to the public  
9 no later than the date the first tenant or resident occupies  
10 the leasehold.

11 (5) Before any fill is placed or any structure is  
12 erected upon, in or over those portions of the parcels which  
13 are presently under water, the person placing such fill or  
14 erecting such structure shall comply with the relevant  
15 provisions of the act of November 26, 1978 (P.L.1375,  
16 No.325), known as the Dam Safety and Encroachments Act, which  
17 may require further measures to provide for public access and  
18 use of the land and adjacent water.

19 (6) These conditions shall be covenants that run with  
20 the land and shall be binding upon the lessee, any sublessee  
21 and their respective successors and assigns. Should the  
22 lessee, any sublessee or any of their respective successors  
23 or assigns permit the parcels authorized to be leased herein,  
24 or any portion thereof, to be used in a manner inconsistent  
25 with the conditions contained in this subsection, all rights  
26 and interests in the lease authorized by this act shall  
27 terminate immediately.

28 (g) Consideration.--The Department of General Services shall  
29 lease the land within the bed of the Delaware River as described  
30 in subsection (b) upon such terms and conditions and for such

1 consideration as it shall, with the concurrence of the  
2 Department of Environmental Protection, establish through the  
3 lease agreements.

4 (h) Costs and fees.--Costs and fees incidental to the lease  
5 authorized by section 1 shall be borne by the lessee.

6 (i) Time limitation.--In the event that the lease authorized  
7 by this section is not executed within 18 months following the  
8 effective date of this act, the authority contained in section 1  
9 shall be void.

10 Section 2. Effective date.

11 This act shall take effect immediately.