

# SENATE . . . . . No. 778

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## The Commonwealth of Massachusetts

PRESENTED BY:

***Michael J. Rodrigues***

*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 to expedite the transfer of cases to the permit session of land court.

PETITION OF:

NAME:

*Michael J. Rodrigues*

DISTRICT/ADDRESS:

*First Bristol and Plymouth*

# SENATE . . . . . No. 778

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By Mr. Rodrigues, a petition (accompanied by bill, Senate, No. 778) of Michael J. Rodrigues for legislation to expedite the transfer of cases to the permit session of land court . The Judiciary.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 1712 OF 2011-2012.]

## The Commonwealth of Massachusetts

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In the Year Two Thousand Thirteen  
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An Act to expedite the transfer of cases to the permit session of land court.

*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. Section 3A of Chapter 185 of the General Laws, as appearing in  
2 the most recent edition, is hereby amended by striking out the third paragraph in its entirety and  
3 inserting in place thereof the following:

4                   The permit session shall have original jurisdiction, concurrently with the  
5 superior court department, over civil actions in whole or part: (a) based on or arising out of the  
6 appeal of any municipal, regional, or state permit, order, certificate or approval, or the denial  
7 thereof, concerning the use or development of real property for residential, commercial, or  
8 industrial purposes (or any combination thereof), including without limitation appeals of such  
9 permits, orders, certificates or approvals, or denials thereof, arising under or based on or relating  
10 to chapter 21, sections 61 to 62H, inclusive, of chapter 30, chapters 30A, 40A to 40C, inclusive,  
11 40R, 41, 43D, 91, 131, 131A, or sections 4 and 5 of chapter 249, or chapter 665 of the acts of  
12 1956; or any local bylaw or ordinance; (b) seeking equitable or declaratory relief (i) designed to  
13 secure or protect the issuance of any municipal, regional, or state permit or approval concerning  
14 the use or development of real property or (ii) challenging the interpretation or application of any  
15 municipal, regional, or state rule, regulation, statute, law, by-law, or ordinance concerning any  
16 permit or approval; (c) claims under section 6F of chapter 231, or for malicious prosecution,  
17 abuse of process, intentional or negligent interference with advantageous relations, or intentional  
18 or negligent interference with contractual relations arising out of, based upon, or relating to the

19 appeal of any municipal, regional, state permit or approval concerning the use or development of  
20 real property; and (d) any other claims between persons holding any right, title, or interest in land  
21 and any municipal, regional or state board, authority, commission, or public official based on or  
22 arising out of any action taken with respect to any permit or approval concerning the use or  
23 development of real property but in all such cases of claims (a) to (d), inclusive, only if the  
24 underlying project or development, in the case of a development that is residential or a mix of  
25 residential and commercial components, involves either 25 or more dwelling units or the  
26 construction or alteration of 25,000 square feet or more of gross floor area or both or, in the case  
27 of a commercial development, involves the construction or alteration of 25,000 square feet or  
28 more of gross floor area. Industrial development projects and any project in which an industrial  
29 use is a component of a mixed-use project shall not be subject to any such minimum thresholds.

30               SECTION 2. Said section 3A of chapter 185 of the General Laws is hereby  
31 further amended by deleting the fourth paragraph in its entirety and inserting in place thereof the  
32 following:

33               Notwithstanding any other general or special law to the contrary, any action not  
34 commenced in the permit session, but within the jurisdiction of the permit session as provided in  
35 this section, shall be transferred to the permit session, upon the filing by any party of a notice  
36 demonstrating compliance with the jurisdictional requirements of this section filed with the court  
37 where the action was originally commenced with a copy to the permit session. Unless the court  
38 where the action was originally commenced receives notice within 10 days from the permit  
39 session that the case to be transferred does not meet the jurisdictional requirements of this  
40 section, the original court shall transfer the case file to the permit session within 20 days of its  
41 receipt of the notice of transfer from the party. In the event the court receives notice of  
42 noncompliance with jurisdictional requirements, the court where the action was originally  
43 commenced shall decide the matter on motion filed by the party claiming noncompliance. If a  
44 party to an action commenced in or transferred to the permit session claims a valid right to a jury  
45 trial, then the action shall be transferred to the superior court for a jury trial.