

SENATE No. 926

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. 926

By Mr. Rodrigues, a petition (accompanied by bill, Senate, No. 926) of Michael J. Rodrigues for legislation to expedite the transfer of cases to the permit session of land court. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 889 OF 2015-2016.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

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 so appearing, is hereby
2 amended by striking out the third paragraph in its entirety and inserting in place thereof the
3 following:

4 The permit session shall have original jurisdiction, concurrently with the superior court
5 department, over civil actions in whole or part: (a) based on or arising out of the appeal of any
6 municipal, regional, or state permit, order, certificate or approval, or the denial thereof,
7 concerning the use or development of real property for residential, commercial, or industrial
8 purposes (or any combination thereof), including without limitation appeals of such permits,
9 orders, certificates or approvals, or denials thereof, arising under or based on or relating to
10 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 further
31 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.