

# HOUSE . . . . . No. 4357

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, February 12, 2024.

The committee on the Judiciary, to whom were referred the petition (accompanied by bill, Senate, No. 933) of Cynthia Stone Creem for legislation to modernize the administration of registered land under Chapter 185 of the General Laws, and the petition (accompanied by bill, House, No. 1700) of Brian W. Murray relative to the administration of registered land, reports recommending that the accompanying bill (House, No. 4357) ought to pass.

For the committee,

MICHAEL S. DAY.

**HOUSE . . . . . No. 4357**

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninety-Third General Court  
(2023-2024)**  
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An Act to modernize the administration of registered land under chapter 185 of the General Laws.

*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. Chapter 183A of the General Laws is hereby amended by striking out  
2 section 16 and inserting in place thereof the following section:-

3           Section 16. The owners of any land may submit the land under this chapter by the  
4 recording in the registry of deeds of a master deed or, if the title to the land is registered under  
5 chapter 185, by filing the master deed under said chapter 185.

6           SECTION 2. Chapter 185 of the General Laws is hereby amended by striking out section  
7 52 and inserting in place thereof the following section:-

8           Section 52. A judgment of registration and the entry of a certificate of title shall be  
9 regarded as an agreement running with the land and binding upon the plaintiff and the plaintiff's  
10 successors in title that the land shall be and forever remain registered land and subject to this  
11 chapter unless withdrawn under this section and except as provided in section 26.

12           If all of a parcel of land, the title to which is registered under this chapter, is acquired by  
13 the commonwealth, any agency, department, board, commission or authority of the  
14 commonwealth, any political subdivision of the commonwealth or any agency, department,  
15 board, commission or authority of any political subdivision of the commonwealth, the  
16 acquisition shall be a sufficient ground for withdrawal of the registered land from this chapter.  
17 The land so acquired shall be withdrawn upon the filing with the land court a complaint for  
18 voluntary withdrawal by the public entity and the endorsement by a justice of the land court of a  
19 “notice of withdrawal by public entity,” which shall be filed in the registry district where the  
20 land lies.

21           The owners of the fee simple estate in a parcel of land, the title to which has been  
22 registered under this chapter, may voluntarily withdraw the registered land from this chapter by  
23 filing with the land court a complaint for voluntary withdrawal naming themselves as all of the  
24 owners of the fee simple estate in the entire parcel of land, and identifying any mortgagees,  
25 lessees, or option holders of record having an interest in the registered land, together with a  
26 notice of voluntary withdrawal. The plaintiff(s) must file with their complaint documentation  
27 sufficient to establish conclusively their ownership of the fee simple estate in the entire parcel of  
28 land that is the subject of the complaint, including, but not limited to, a last-prepared certificate  
29 of title, deed(s), conveyance records or other documents or instruments that demonstrate their  
30 ownership interest. The plaintiff(s) also may file with the court written and signed assents from  
31 any interest holders entitled to notice who have agreed to the withdrawal. Upon the request of  
32 the plaintiff(s) or the court’s determination of reasonable need, the court may appoint an  
33 examiner of title, whose fees shall be paid by the plaintiff(s), to prepare a report sufficient to  
34 identify the current owners and all current mortgagees, lessees, or option holders with interests in

35 the land who are entitled to notice. The court's order of appointment shall be made within 30  
36 days of receipt of the complaint or request for appointment, if later made, unless the court, for  
37 good cause, determines that appointment at a later time is indicated, and shall direct such report  
38 to be prepared and filed with the court no later than 14 days after the appointment is made,  
39 unless the court, for good cause, then or thereafter allows further time. All interest holders  
40 entitled to notice who have not assented shall be served by certified mail with a file-stamped  
41 copy of the complaint and notice of voluntary withdrawal. The court may order further notice to  
42 be given, including by additional means, if the court determines it necessary or desirable to  
43 accomplish effective service. The plaintiff(s) shall file with the court an affidavit certifying that  
44 such notice by certified mail or other means ordered by the court has been given, together with  
45 proof of service. Where the plaintiff(s) are represented by counsel, the affidavit shall be  
46 executed by counsel.

47 As used in this section, "notice of voluntary withdrawal" shall mean an instrument in  
48 writing signed and acknowledged by all owners of the land to be voluntarily withdrawn, and that  
49 contains the following information: (i) names and addresses of all owners; (ii) their certificate of  
50 title number with the registration book and page numbers; (iii) a description of the land in the  
51 form contained in the certificate of title or a description incorporating by reference the lot(s)  
52 numbers, if numbered, and the Land Court Plan, together with a reference to the certificate with  
53 which the plan is filed; and (iv) the street address of the land, if any. The notice of voluntary  
54 withdrawal shall include warning to all interest holders entitled to notice that any objection to the  
55 requested withdrawal must be filed with the court within 30 days following the service of the  
56 notice or will be waived.

57           If no objection has been filed by any interest holders entitled to notice within 30 days  
58 following service, a justice of the court shall approve and endorse the notice of voluntary  
59 withdrawal within 30 days following receipt of all required information and documentation  
60 unless the court, for good cause, determines that further time is indicated. Notwithstanding the  
61 filing of an objection within 30 days, the notice of voluntary withdrawal shall be endorsed by a  
62 justice of the land court unless the court determines that there is good cause for the objection.  
63 Upon endorsement by a justice of the land court, the notice of voluntary withdrawal shall be filed  
64 for registration and noted on the memorandum of encumbrances for the certificate of title and  
65 may be recorded with the registry of deeds for the district within which the land lies, whereupon  
66 the land shall be withdrawn from this chapter and shall become unregistered land. The owners  
67 shall hold title to the land free of all liens and encumbrances, including adverse possession and  
68 prescriptive rights, existing as of the date the judicially-endorsed notice of voluntary withdrawal  
69 is noted on the memorandum of encumbrances, as though a judgment of confirmation without  
70 registration had been recorded under section 56A; provided, however, that the owners shall not  
71 hold title free of the encumbrances set forth or referred to in section 46 and those noted on the  
72 certificate of title or filed for registration before the date the endorsed notice of voluntary  
73 withdrawal is noted on the memorandum of encumbrances.

74           The chief justice of the land court or their designee may promulgate or establish rules,  
75 practices, guidelines, forms or procedures, including an appropriate filing fee for the complaint  
76 and notice of voluntary withdrawal, as necessary to implement this section.

77           SECTION 3. Section 114 of said chapter 185 is hereby amended by striking out section  
78 114 and inserting in place thereof the following section:-

79           Section 114. No erasure, alteration or amendment shall be made upon the registration  
80 book after the entry of a certificate of title or of a memorandum thereon and the attestation of the  
81 same by the recorder or an assistant recorder without court order, except in an instance in which  
82 the assistant recorder, upon approval of the chief title examiner of the land court or their  
83 designee, determines that a clerical error or omission has been made in the entry of the certificate  
84 of title or memorandum thereon.

85           A registered owner or other person in interest may apply by complaint to the court upon  
86 the grounds that: (i) registered interests of any description, whether vested, contingent, expectant  
87 or inchoate, have terminated and ceased; (ii) new interests not appearing upon the certificate  
88 have arisen or been created; (iii) any error or omission was made in entering a certificate or any  
89 memorandum thereon; (iv) the name of any person on the certificate has been changed; (v) the  
90 registered owner has married, or if registered as married, that the marriage has been terminated;  
91 (vi) a corporation which owned registered land and has been dissolved has not conveyed the  
92 same within 3 years after its dissolution; or (vii) upon any other reasonable ground, and the court  
93 may hear and determine the complaint after notice to all parties in interest, and may order the  
94 entry of a new certificate, the entry or cancellation of a memorandum upon a certificate, or grant  
95 any other relief upon such terms, requiring security if necessary, as it may consider proper;  
96 provided, however, that this section shall not authorize the court to open the original judgment of  
97 registration; provided further, however, that nothing shall be done by the assistant recorder or  
98 ordered by the court that shall impair the title or other interest of a purchaser holding a certificate  
99 for value and in good faith, or his heirs or assigns, without his or their written consent.