

SENATE No. 933

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia Stone Creem

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 modernize the administration of registered land under Chapter 185 of the General Laws.

PETITION OF:

NAME:

Cynthia Stone Creem

DISTRICT/ADDRESS:

Norfolk and Middlesex

SENATE No. 933

By Ms. Creem, a 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. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

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

3 Section 52. The obtaining of a judgment of registration and the entry of a certificate of
4 title shall be regarded as an agreement running with the land and binding upon the plaintiff and
5 the plaintiff's successors in title that the land shall be and forever remain registered land and
6 subject to this chapter unless withdrawn under this section or section 16 of chapter 183A and
7 except as provided in section 26.

8 If all of a parcel of land, the title to which is registered under this chapter, is acquired by
9 the commonwealth, any agency, department, board, commission or authority of the
10 commonwealth, any political subdivision of the commonwealth or any authority of any political
11 subdivision of the commonwealth, the filing of the taking by the authority or the issuance of a

12 certificate of title in the name of the authority shall be a sufficient ground for withdrawal of the
13 registered land from this chapter. The land so acquired shall be withdrawn upon the filing with
14 the land court of a “notice of withdrawal by public entity,” a certified copy of which shall be
15 filed in the registry district where the land lies.

16 All the owners of the fee simple estate in all of a parcel of land, the title to which has
17 been registered under this chapter, may voluntarily withdraw the registered land from this
18 chapter by filing a notice of voluntary withdrawal with the land court together with:

19 (a) a report by an examiner of titles appointed pursuant to section 12 certifying as to the
20 identity of the record owner and any mortgagees or lessees of record having an interest in the
21 registered land; and

22 (b) an attorney’s affidavit certifying that notice of an intention to file the notice of
23 voluntary withdrawal has been given by certified mail to all mortgagees and lessees of record
24 appearing on the report by the examiner of title so appointed.

25 If no objection has been filed by a mortgagee or lessee of record within thirty (30) days
26 following the date of filing of the notice of voluntary withdrawal with the land court, a justice of
27 the court shall approve and endorse the plaintiff’s notice of voluntary withdrawal.

28 Notwithstanding the filing of an objection within thirty (30) days, the notice of voluntary
29 withdrawal shall be endorsed by a justice of the land court unless the court determines that there
30 is good cause for the objection.

31 Upon endorsement by a justice of the land court, the notice of voluntary withdrawal shall
32 be noted on the memorandum of encumbrances for the certificate of title and recorded with the
33 registry of deeds for the district within which the land lies, whereupon the land shall be

34 withdrawn from this chapter and shall become unregistered land. The owners shall hold title to
35 the land free of all liens and encumbrances, including adverse possession and prescriptive rights,
36 existing as of the date the notice of voluntary withdrawal is noted on the memorandum of
37 encumbrances, as though a judgment of confirmation without registration had been recorded
38 under section 56A; provided, however, that the owners shall not hold title free of the
39 encumbrances set forth or referred to in section 46 and those noted on the certificate of title or
40 filed for registration before the date the notice of voluntary withdrawal is noted on the
41 memorandum of encumbrances.

42 As used in this section, "notice of voluntary withdrawal" shall mean an instrument in
43 writing signed and acknowledged by all owners of the land to be voluntarily withdrawn, as
44 evidenced by the report by the examiner filed with the notice and attorney's affidavit as provided
45 above, and that contains the following information: names and addresses of all owners; the
46 certificate of title number with the registration book and page numbers; the description of the
47 land in the form contained in the certificate of title; and the street address of the land, if any. The
48 owner shall deposit with the recorder a sum sufficient to cover costs of the proceeding. Upon
49 filing with the court, the notice of voluntary withdrawal shall be presented for the endorsement
50 of a justice of the court approving the voluntary withdrawal as provided in this section.

51 The justices of the land court shall establish rules and practices, including an appropriate
52 filing fee for the notice of voluntary withdrawal, as necessary to implement this section.

53 SECTION 2. Section 114 of said chapter 185 is hereby amended by striking out section
54 114 and inserting in place thereof the following section:-

55 Section 114.

56 No erasure, alteration or amendment shall be made upon the registration book after the
57 entry of a certificate of title or of a memorandum thereon and the attestation of the same by the
58 recorder or an assistant recorder, except in an instance in which the assistant recorder determines
59 that a clerical error or omission has been made in the entry of the certificate of title or
60 memorandum thereon, and otherwise by order of the court.

61 A registered owner or other person in interest may apply by motion to the court upon the
62 ground that registered interests of any description, whether vested, contingent, expectant or
63 inchoate, have terminated and ceased; or that new interests not appearing upon the certificate
64 have arisen or been created; or that any error or omission was made in entering a certificate or
65 any memorandum thereon; or that the name of any person on the certificate has been changed; or
66 that the registered owner has married, or if registered as married, that the marriage has been
67 terminated; or upon any other reasonable ground; and the court may hear and determine the
68 motion after notice to all parties in interest, and may order the entry of a new certificate, the
69 entry or cancellation of a memorandum upon a certificate, or grant any other relief upon such
70 terms, requiring security if necessary, as it may consider proper; but this section shall not
71 authorize the court to open the original judgment of registration, and nothing shall be done by the
72 assistant recorder or ordered by the court that shall impair the title or other interest of a purchaser
73 holding a certificate for value and in good faith, or his heirs or assigns, without his or their
74 written consent.