SENATE DOCKET, NO. FILED ON: 12/21/2012

SENATE . . . . . No. 2481

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act relative to voluntary withdrawal of land from registration.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 183A of the General Laws is hereby amended by striking out section 16, as appearing in the 2010 Official Edition, and inserting in place thereof the following section:-

Section 16. The owners of any land may submit that land under this chapter by the recording in the registry of deeds of a master deed or, if all of the land is registered under chapter 185 and the owners do not wish to withdraw the land from the operations of said chapter185, by filing the master deed under said chapter185. If the whole or a portion of the land desired to be submitted under this chapter is registered land under said chapter 185, such recording of a master deed shall be a sufficient ground for withdrawal of the registered land from said chapter 185.

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

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successors in title that the land shall be and forever remain registered land and subject to this chapter, unless withdrawn under this section or under section 16 of chapter 183A and except as provided in section 26.

If all of a parcel of land, the title to which is registered under this chapter, is acquired by the commonwealth or any agency, department, board, commission or authority of the commonwealth or any political subdivision thereof or any authority of any such political subdivision, such acquisition shall be a sufficient ground for withdrawal of the registered land from this chapter. The land shall be withdrawn upon the filing of a complaint with the court by

22 the public entity that has acquired the registered land and the approval of the complaint by the
23 court.

24 All of the owners of the fee simple estate in all of a parcel of land, the title to which has
25 been registered under this chapter, may voluntarily withdraw the registered land from this
26 chapter by filing a notice of voluntary withdrawal, endorsed by a justice of the land court as
27 provided in this section, in the registry district of the land court where the land lies. Such notice
28 of voluntary withdrawal shall be noted on the memorandum of encumbrances for the certificate
29 of title. Upon the filing of such notice, the land shall be withdrawn from this chapter and shall
30 become unregistered land and the owners shall hold title to the land at the time of such filing free
31 of all liens and encumbrances existing as of the time of filing of the notice, including adverse
32 possession and prescriptive rights, as though a judgment of confirmation without registration
33 effective as of the time of filing of the notice had been recorded under section 56A; provided,
34 however, that the owner shall not hold title free of the encumbrances set forth or referred to in
35 section 46 and those noted on the certificate of title or filed for registration before the filing of
36 the notice of voluntary withdrawal.

37 As used in this section, "notice of voluntary withdrawal" shall mean an instrument in
38 writing signed and acknowledged by all owners of the land to be voluntarily withdrawn and
39 contains the following information: names and addresses of all owners; the certificate of title
40 number with the registration book and page numbers; the description of the land in the form
41 contained in the certificate of title; and the street address of such land, if any, and which bears
42 the endorsement of a justice of the land court approving the voluntary withdrawal as provided in
43 this section. Upon filing with the land court of a complaint to withdraw land, the plaintiff shall
44 deposit with the recorder a sum sufficient to cover costs of the proceeding. The court shall then
45 appoint 1 of the examiners of title, who shall make a report to the court as to the identity of the
46 current record owners and of all mortgagees and lessees with interests of record in the land.
47 Unless, after notice is given to the mortgagees and lessees of record, an outstanding objection
48 has been filed by a mortgagee or lessees of record, a justice of the land court shall approve the
49 application and shall endorse the plaintiff's notice of voluntary withdrawal if: (i) the registered
50 land constitutes less than all of the total area of a single parcel or of 2 or more contiguous parcels
51 in common ownership; (ii) the registered land consists of less than 10 per cent of the portion of
52 the land area to which an original certificate of title pertains and the rest of the land area to which
53 that certificate pertains was conveyed under this chapter since the original registration; (iii) the
54 owners of the registered land have submitted the land, or satisfy the court that they will submit
55 the land, to chapter 183A or 183B or have created interests in the land to which said chapter
56 183B is applicable under section 3 of chapter 760 of the acts of 1987, or satisfy the court that
57 they will create those interests; (iv) the owners of the registered land establish that the registered
58 land is improved with an occupied building not used or occupied as or in connection with, and
59 not designed or intended for use or occupancy as or in connection with, a 1 to 4 family
60 residential dwelling; or (v) the court finds that the owners of the registered land have

61 demonstrated other good cause for withdrawal under this section, including, but not limited to,
62 economic hardship by reason of the land being registered which may include the burdens and
63 expenses of further dividing the registered land into lots for separate conveyance.
64 Notwithstanding any such outstanding objection, the application may be approved, unless the
65 court determines there is good cause for the objection.

66 The justices of the land court shall establish rules and practices, including an appropriate
67 filing fee for the application as are necessary to implement this section.