

HOUSE No. 1643

By Mr. O’Flaherty of Chelsea, petition of Eugene L. O’Flaherty relative to making technical changes in land court administration of registered land. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT MAKING TECHNICAL CHANGES IN LAND COURT ADMINISTRATION OF REGISTERED LAND.

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 52 of chapter 185 of the General Laws is
2 hereby amended by striking the fourth paragraph and inserting in
3 place thereof the following paragraph:—

4 As used in this section, “notice of voluntary withdrawal” shall
5 mean an instrument in writing signed and acknowledged by all
6 owners of the land to be voluntarily withdrawn, which contains the
7 following information: names and addresses of all owners; the cer-
8 tificate of title number with the registration book and page numbers;
9 the description of the land in the form contained in the certificate of
10 title; and the street address of such land, if any, and which bears the
11 endorsement of a justice of the land court approving the voluntary
12 withdrawal as provided in this section. Upon filing with the land
13 court of a complaint to withdraw land, the plaintiff shall deposit with
14 the recorder a sum sufficient to cover costs of the proceeding. The
15 court shall then appoint one of the examiners of title, who shall
16 make a report to the court as to the identity of the current record
17 owner and of all mortgagees and lessees with interests of record in
18 the land. A justice of the land court shall approve the application and
19 shall endorse the plaintiff’s notice of voluntary withdrawal if:—

20 (a) the registered land constitutes less than 50 percent of the total
21 area of a single parcel or of two or more contiguous parcels in
22 common ownership;

23 (b) the registered land consists of less than 10 percent of the por-
24 tion of the land area to which an original certificate of title pertains,
25 the rest of the land area to which such certificate pertains having
26 been conveyed since the original registration under this chapter;

27 (c) the owners of the registered land have submitted, or propose to
28 submit as hereinafter provided, the land to the provisions of Chapter
29 183A or 183B or have created interests in the land to which chapter
30 183B is applicable pursuant to Section 3 of Chapter 760 of the acts
31 of 1987; or

32 (d) the court finds that the owners of the registered land have
33 demonstrated other good cause for withdrawal under this section,
34 including but not limited to, economic hardship by reason of the
35 land being registered, unless, notice having been given to mort-
36 gagees and lessees of record, an outstanding objection has been filed
37 by a mortgagee or lessee of record. Notwithstanding any such out-
38 standing objection, the application may be approved, unless the
39 court determines there is good cause for the objection. The justices
40 of the land court shall establish rules and practices, including an
41 appropriate filing fee for the application as are necessary to imple-
42 ment this section. An owner of registered land who proposes to
43 submit the land to the provisions of Chapter 183A or 183B may set
44 forth in the complaint filed hereunder a request that the court
45 approve the application and endorse the notice of withdrawal subject
46 to the condition that the master deed shall be presented for recording
47 pursuant to section 16 of chapter 183A in the registry of deeds for
48 the district in which the land is situated, and upon such recording of
49 the master deed and filing of the judgment of withdrawal and entry
50 on the memorandum of encumbrances of the certificate of title, the
51 subject premises shall be so withdrawn.

1 SECTION 2. Section 62 of said chapter 185 is hereby amended
2 in the second sentence by adding, between the word “instrument”
3 and the word “shall,” a comma and the following words: or by the
4 presentation of a deed or other instrument executed on behalf of a
5 corporation by a person or persons falsely purporting to be the presi-
6 dent, vice president, treasurer, or assistant treasurer of such corpora-
7 tion,