

**SENATE . . . . . No. 00694**

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The Commonwealth of Massachusetts

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PRESENTED BY:

*Cynthia S. Creem*

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*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 passage of the accompanying bill:

An Act relative to voluntary withdrawal of land from registration.

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PETITION OF:

NAME:

*Cynthia S. Creem*

DISTRICT/ADDRESS:

*First Middlesex and Norfolk*

**SENATE . . . . . No. 00694**

By Ms. Creem, petition (accompanied by bill, Senate, No. 694) of Creem for legislation relative to voluntary withdrawal of land from registration [Joint Committee on the Judiciary].

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

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:*

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 same to the provisions of this  
4 chapter by the recording in the registry of deeds of a master deed, or, if all of the land is  
5 registered under the provisions of chapter one hundred and eighty-five, by filing the master deed  
6 under the provisions of said chapter. If a portion of the land desired to be submitted to the  
7 provisions of this chapter is registered land under said chapter one hundred and eighty-five, any  
8 such portion may be withdrawn from the provisions of said chapter as provided in section 52  
9 thereof of said chapter.

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

12           Section 52. The obtaining of a judgment of registration and the entry of a certificate of  
13 title shall be regarded as an agreement running with the land and binding upon the plaintiff and  
14 his successors in title that the land shall be and forever remain registered land and subject to this  
15 chapter and all acts in amendment thereof, unless withdrawn under this section, and except as  
16 provided in section 26 of this chapter.

17           All of the owners of the fee simple estate in all of a parcel of land that has been  
18 registered under this chapter, including the commonwealth or any agency, department, board,  
19 commission, or authority of the commonwealth or any political subdivision thereof or any  
20 authority of any such political subdivision, may voluntarily withdraw the registered land from  
21 the provisions of this chapter by filing a notice of voluntary withdrawal, endorsed by a justice of  
22 the land court as provided in this section, in the registry district of the land court where the land  
23 lies. Such notice of voluntary withdrawal shall be noted on the memorandum of encumbrances  
24 for the certificate of title. Upon the filing of such notice, the land shall be deemed withdrawn  
25 from the provisions of this chapter and shall become unregistered land, and the owners shall hold  
26 title thereto at the time of such filing free of all liens and encumbrances, including adverse  
27 possession and prescriptive rights, except those set forth or referred to in section 46 and those  
28 noted on the certificate of title or filed for registration before the filing of the notice of voluntary  
29 withdrawal, as though a judgment of confirmation without registration had been recorded under  
30 section 56A.

31           As used in this section, “notice of voluntary withdrawal” shall mean an instrument in  
32 writing signed and acknowledged by all owners of the land to be voluntarily withdrawn, which  
33 contains the following information: names and addresses of all owners; the certificate of title  
34 number with the registration book and page numbers; the description of the land in the form

35 contained in the certificate of title; and the street address of such land, if any, and which bears  
36 the endorsement of a justice of the land court approving the voluntary withdrawal as provided in  
37 this section. Upon filing with the land court of a complaint to withdraw land, the plaintiff shall  
38 deposit with the recorder a sum sufficient to cover costs of the proceeding. The court shall then  
39 appoint one of the examiners of title, who shall make a report to the court as to the identity of the  
40 current record owner and of all mortgagees and lessees with interests of record in the land. A  
41 justice of the land court shall approve the application and shall endorse the plaintiff's notice of  
42 voluntary withdrawal, unless, notice having been given to mortgagees and lessees of record, an  
43 outstanding objection has been filed by a mortgagee or lessee of record. Notwithstanding any  
44 such outstanding objection, the application may be approved, unless the court determines there is  
45 good cause for the objection.

46           An owner of registered land who proposes to submit the land to the provisions of  
47 chapter 183A or 183B may set forth in the complaint filed hereunder a request that the court  
48 approve the application and endorse the notice of withdrawal subject to the condition that the  
49 master deed shall have been, or shall be, presented for recording pursuant to section 16 of  
50 chapter 183A in the registry of deeds in which the land is situated, and upon such recording of  
51 the master deed and filing of the judgment of withdrawal and entry on the memorandum of  
52 encumbrances of the certificate of title, the subject premises shall be so withdrawn.

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