

HOUSE No. 5597

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, June 1, 1987.

The committee on State Administration, to whom was referred the petition (accompanied by bill, House, No. 828) of Thomas F. Brownell and others for legislation to establish a Massachusetts land records authority for the purpose of recording, storing and indexing instruments and plans effecting titles to land, reports recommending that the accompanying bill (House, No. 5597) ought to pass.

For the committee,

JOSEPH N. HERMANN.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Seven.

AN ACT ESTABLISHING THE MASSACHUSETTS LAND RECORDS COMMISSION.

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. Short Title of Act

2 This Act may be referred to and cited as the "Massachusetts
3 Land Records Commission Act."

1 SECTION 2. Massachusetts Land Records Commission

2 There is hereby created and placed in the executive office of
3 communities and development a body politic to be known as the
4 Massachusetts Land Records Commission, which shall not be
5 subject to the supervision or control of said executive office of
6 communities and development or of any department, commission,
7 board, bureau or agency of the Commonwealth except to the
8 extent and in the manner provided in this act. Hereafter in this
9 chapter the Massachusetts Land Records Commission shall be
10 referred to as the Commission. The Commission is hereby con-
11 stituted a public instrumentality and the exercise by the Commis-
12 sion of the powers conferred by this act shall be deemed and held
13 to be the performance of an essential governmental function.

1 SECTION 3. Membership of the Commission

2 The Commission shall consist of eleven members, of whom:

3 a. one shall be the Land Court Recorder; and

4 b. three persons shall be appointed by the governor, of whom:

5 1. one shall be real estate broker licensed in the Common-
6 wealth;

7 2. one shall be a person with at least five years experience in
8 computer technology and the application thereof; and

9 3. one shall be an architect with at least five years experience
10 in the design of public buildings;

11 c. two shall be appointed by the administrative justice of the
12 Land court, of whom:

13 1. one shall be a registered land surveyor with at least five years
14 experience; and

15 2. one shall be a lawyer with at least five years experience in
16 real estate transactions;

17 d. two shall be appointed by the President of the Massachu-
18 setts Senate of whom:

19 1. one shall be a former register of deeds of either of the Suf-
20 folk or the Middlesex South District registries of deeds, whose
21 terms shall alternate; and

22 2. one shall be a former register of deeds of either Worcester
23 or Hampden district registries of deeds;

24 e. two shall be appointed by the Speaker of the Massachusetts
25 House of Representatives, of whom:

26 1. two shall be former registers of deeds of districts other than
27 Suffolk, Middlesex South, Worcester or Hampden districts, pro-
28 vided that these two members shall not be former registers for
29 districts within the same county; and

30 f. one shall be appointed by the Massachusetts Conveyancers
31 Association, who shall be a lawyer with at least five years expe-
32 rience in real estate transactions.

33 The members of the Commission shall be residents of the Com-
34 monwealth and shall serve without compensation, provided how-
35 ever, each member shall be reimbursed for all necessary travel and
36 other expenses incurred by him in the discharge of his official
37 duties and approved in writing by a vote of a majority of the mem-
38 bers of the Commission at an official meeting of the Commission.

39 Each member shall be appointed for a term of seven years,
40 except that, in making the initial appointments the governor shall
41 appoint one member to serve for two years and one for five years,
42 and the President of the Senate and the Speaker of the House
43 shall appoint one member to serve three years and one for five
44 years. Any person appointed to fill a vacancy shall serve only for
45 the unexpired term. Any member shall be eligible for reappoint-
46 ment; but only for two consecutive terms.

47 All meetings of the Commission shall be subject to the provi-
48 sions of chapter thirty A of the General Laws. Six members of

49 the Commission shall constitute a quorum and the affirmative
50 vote of six members shall be necessary for any action taken by
51 the Commission, provided however, the chairman or a vote of any
52 six members may call a meeting of said commission and advance
53 notice of all meetings shall be given to each member of the
54 Commission and to any other person who requests such notice.
55 No vacancy in the membership of the commission shall impair
56 the right of a quorum to exercise all the rights and perform all
57 the duties of the Commission. Any vacancy occurring on the
58 Commission shall be filled within ninety days by the original
59 appointing authority.

60 Members of the commission may be removed by a majority vote
61 of the governor, the President of the Senate, the Speaker of the
62 House, and the administrative justice of the Land Court, for
63 substantial neglect of duty, inability to discharge the powers and
64 duties of office, gross misconduct, or conviction of a felony.

65 A member of the Commission shall cease to be a member if
66 such member ceases to be qualified for appointment or if he is
67 absent from five regularly scheduled meetings during any calendar
68 year. The Chairman of the Commission or the vice chairman of
69 the Commission acting in the absence of the chairman, whichever
70 the case may be, shall forthwith notify the original appointing
71 authority of such vacancy, and said vacancy shall be filled in the
72 same manner as the original appointment for the remainder of
73 the members unexpired term. A member so appointed shall be
74 eligible for reappointment to not more than two successive terms
75 after serving out the term of the vacancy which said member was
76 appointed to serve out.

77 The members of the Commission shall, by a majority vote at
78 an official meeting, elect a chairman and a vice chairman and fix
79 their term of office. The vice chairman shall act as chairman in
80 the absence of the chairman or in the event of a vacancy in that
81 position.

1 SECTION 4. Powers of the Commission

2 The Commission is authorized and empowered to:

- 3 a. to adopt by-laws for the regulation of its affairs and the
- 4 conduct of its business.

- 5 b. to adopt an official seal and alter the same at its pleasure;
- 6 c. to maintain an office, in cooperation with the division of
7 capital planning and operations, at such place or places as may
8 be necessary;
- 9 d. to enter into agreements or other transactions with any
10 federal, state, or municipal agency, board, departments, bureau,
11 division, office, authority, or commission; except that any agree-
12 ments or transactions relating to the acquisition, lease, rental,
13 transfer, or other disposal of any real property to be used by the
14 Commission or the registries which shall be the sole jurisdiction
15 of the division of the division of capital planning and operations;
- 16 e. to make and execute contracts and other instruments neces-
17 sary or convenient for the exercise of its powers and functions;
18 except those relating to the acquisition or disposal of any real
19 property for use by the Commission or the registries, which shall
20 be the sole jurisdiction of the division of capital planning and
21 operations;
- 22 f. to determine uniform fees for the recording of instruments,
23 the filing of plans and the indexing thereof;
- 24 g. to appear in its own behalf before boards, commissions,
25 departments, bureau, authority, or other agencies of federal, state,
26 or municipal government;
- 27 h. to accept gifts or grants, except real property which shall
28 be the sole jurisdiction of the division of capital planning and
29 operations, or loans of funds or financial or other aid from any
30 federal, state, municipal, or private sources;
- 31 i. to employ an executive director who shall serve, full time,
32 at the pleasure of the commission and to fix the compensation
33 thereof; provided however, neither the person so employed nor
34 the position aforementioned shall be classified under chapter
35 thirty-one of the General Laws or have tenure by reason of sec-
36 tion nine A of chapter thirty of the General Laws;
- 37 j. to employ such consulting engineers, attorneys, accountants,
38 computer experts, archival and financial experts, superintendents,
39 managers, and such other employees and agents as may be neces-
40 sary in its judgment; provided however, neither the persons nor
41 the positions aforementioned shall be classified under chapter
42 thirty-one of the General Laws or have tenure by reason of sec-
43 tion nine A of chapter thirty of the General Laws;

44 k. to establish from time to time the salaries of the registers
45 of deeds, considering the written recommendations, if any, sub-
46 mitted to the commission by the Massachusetts Register of Deeds
47 and Assistant Registers of Deeds Association, or a successor
48 organization with like purpose;

49 l. to approve the operating budgets of the various registers and
50 their registries of deeds; provided however, those positions of said
51 operating budgets which relate to any acquisition, lease, rental,
52 transfer, or any other disposition of any real property utilized by
53 the commission or the various registries shall require the written
54 approval of the deputy commissioner of the division of capital
55 planning and operation prior to approval of said operating bud-
56 gets by said commission;

57 m. to do any and all things necessary or convenient to carry
58 out its purposes and exercise the powers expressly given and
59 granted in this Act.

1 SECTION 5. Registers of Deeds Election

2 This act shall not affect the manner in which the registers of
3 deeds are elected to office.

1 SECTION 6. Appoint of Employees of the Registries of Deeds

2 The registers of deeds shall have the right to appoint and hire
3 deputies, assistants, and employees, and to fix their compensa-
4 tion, subject to the approval of the commission; provided how-
5 ever, no such employees or positions shall be classified under
6 chapter thirty-one of the General Laws or have tenure by reason
7 of section nine A of chapter thirty of the General Laws;

1 SECTION 7. Criteria for Recording of Land Records

2 The commission shall not judge the appropriateness of instru-
3 ments and plans for recording and filing, which judgment shall
4 remain the duty of the registers, the recorders, and such deputies
5 as have by them been so designated.
6

1 SECTION 8. Offices of the Commission and the Offices of the 2 Registries of Deeds

3 The division of capital planning and operations shall, subject

4 to the provisions of sections forty E through forty L inclusive and
5 in consultation with the commission and each register of deeds,
6 provide for adequate office space and other real property needs
7 for said commission and said registries.

1 SECTION 9. Revenues of the Registries

2 The fees received by the registries and recorders for the
3 recording and filing of instruments and plans, and for the
4 reproduction thereof by registry personnel shall be paid over to
5 the following accounts and shall be set aside at regular intervals
6 in the following order and for the following purposes:

7 First: there shall be established and set up on the books of the
8 Commonwealth a separate fund, to be known as the Commission
9 Operation Fund. Said fund shall consist of an amount sufficient
10 to pay the cost of the operation of the Commission; provided
11 however, said fund shall not exceed five hundred thousand
12 dollars;

13 Second: there shall be established and set up on the books of
14 the Commonwealth a separate fund, to be known as the Registries
15 of Deeds Fund. Said fund shall consist of an amount sufficient
16 to pay the costs of the operations of the various registries, as
17 reasonably determined by the Commission in consultation with
18 the division of capital planning and operations; provided however,
19 said fund shall not exceed six million five hundred thousand
20 dollars;

21 Third: there shall be established and set up on the books of the
22 Commonwealth a separate fund, to be known as the Registries
23 of Deeds Replacement Fund; such amount, as the Commission
24 in consultation with the division of capital planning and
25 operations and subject to the approval of the house and senate
26 committees on Ways and Means may deem necessary, for the
27 replacement, construction, alteration, maintenance, repairs, lease,
28 rental, or other disposition and improvements to said registries.
29 Said funds shall be expended, subject to appropriation and laws
30 relating to state finances for the aforementioned purposes.
31 Provided however, said fund shall not exceed eight million five
32 hundred thousand dollars.

33 Fourth: There shall be established and set up on the books of

34 the Commonwealth a separate fund, to be known as the Registries
35 of Deeds Local Aid Fund. Said fund shall consist of all revenues
36 received by the registries of deeds, and all other monies credited
37 or transferred thereto from any other fund or source pursuant
38 to law, remaining after funding the aforementioned funds; and
39 monies disbursed directly to cities and towns in accordance with
40 the provisions of section eighteen C of chapter fifty-eight of the
41 general laws.

42 The Commission shall annually on September first file with the
43 state treasurer, the state auditor, the commissioner of
44 administration and finance, the house and senate chairmen of
45 committees on ways and means, and the house and senate
46 chairmen of the joint committee on state administration an annual
47 report of each fund's income, expenditures, and available
48 balances, based upon the status of the fund on June thirtieth of
49 each year.

50 The funds shall be subject to an annual audit by the state
51 auditor, a copy of which shall be sent to the house and senate
52 committees on ways and means and to the house and senate
53 chairmen of the joint committee on state administration.

1 SECTION 10. Commission Subject to Chapter 12A

2 The provisions of chapter 12A of the general laws shall apply
3 to the Commission.

1 SECTION 11. Annual Report

2 The Commission shall keep an accurate account of all its
3 activities and of all its receipts and expenditures and shall annually
4 in the month of September make a report thereof to its members,
5 to the governor, the state auditor, the chairman of the senate ways
6 and means committee, the chairman of the house ways and means
7 committee, the house and senate chairmen of the joint committee
8 on state administration, and the secretary of communities and
9 development, such reports to be in a form prescribed by the
10 members, with the written approval of said auditor. The members
11 or said auditor may investigate the affairs of the Commission, may
12 severally examine the properties and records of the Commission,
13 and may prescribe methods of accounting and the rendering of
14 periodical reports in relation to projects undertaken by the
15 Commission.

1 SECTION 12. Annual Audit

2 The books and records of the Commission shall be subject to
3 annual audit by the auditor of the commonwealth.

1 SECTION 13. Preliminary Expenses

2 To provide for the preliminary expenses of the Commission in
3 carrying out the provisions of this act, the sum of five hundred
4 thousand dollars is hereby appropriated, which sum shall be paid
5 to the Commission Fund and the sum so paid shall be reimbursed
6 by the Commission to the commonwealth out of the proceeds of
7 any revenues which may be received under the provisions of this
8 act.

9 The Commission is hereby authorized and directed to make
10 such surveys and studies of the land records as may be necessary
11 or authorized by this act at the earliest practicable time and for
12 this purpose to employ such consulting engineers, computer,
13 archival, legal and financial experts and such other employees and
14 agents as it may deem necessary.

15 The Commission may also draw from such sum such monies
16 as may be necessary to purchase or lease office space, subject the
17 provisions of sections forty A through forty L inclusive of chapter
18 7 of the general laws, to compensate salaried employees of the
19 Commission, and generally to start up the operations of the
20 Commission.

1 SECTION 14. General Laws, Chapter 34A Amended

2 Chapter 34A of the General Laws is hereby amended by striking
3 from section 15 (C.) the words: "or the administration of the
4 registry of deeds."

1 SECTION 15. General Laws, Chapter 35 Amended

2 Chapter 35 of the General Laws is hereby amended:

3 a. by adding to section 22 the word "and" before "registers of
4 probate and insolvency" and by striking out the words "and
5 registers of deeds;"

6 b. by adding to section 22A the words "and" before "registers
7 of probate and insolvency" and by striking out the words "and
8 registers of deeds;"

9 c. by striking from section 45 the words “the recorder and all
10 assistant records of the land court” and the words “registers of
11 deeds and;”

12 d. by striking from section 49 the words “the register of deeds
13 and assistant registers of deeds for the county of Suffolk;” and

14 e. by striking from the third paragraph of section 51 the words
15 “assistant registers of deeds.”

1 SECTION 16. General Laws, Chapter 36 Amended

2 Chapter 36 of the General Laws is hereby amended:

3 a. by striking out section 3 and inserting in place thereof the
4 following new section: —

5 Section 3. Each register of deeds shall be sworn before the
6 Land Court, and prior to being sworn, and thereafter, at intervals
7 of not more than one year, so long as he continues to hold such
8 office, shall give bond to the Land Court in such sum as it shall
9 approve, conditioned to perform faithfully his own official duties,
10 with a surety company authorized to transact business in the
11 commonwealth, as surety;

12 b. by striking from section 4 the words “the superior court” and
13 inserting in place thereof the words “the Land Court;”

14 c. by striking from section 6 the words “with the approval of
15 their respective county commissioners;”

16 d. by striking from section 8 the words “the county
17 commissioners, or in Suffolk County the superior court” and
18 inserting in place thereof the words “the Land Court;”

19 e. by striking from section 9 the words “the county
20 commissioners, or in Suffolk County the superior court” and
21 inserting in place thereof the words “the Land Court” and by
22 striking from said section the words “their clerk” and inserting
23 in place thereof the words “the Recorder of the Land Court;”

24 f. by striking from section 11 the words “the county
25 commissioners” and inserting in place thereof “the Land Court;”

26 g. by striking from section 17 the first sentence and by inserting
27 in place thereof the following sentence;

28 The register shall at the expense of the Massachusetts Land
29 Records Commission established by Chapter of the Acts of
30 1987, procure and keep duplicate record books, in which he shall
31 make fair and legible copies of the record of any deed or other

32 instrument existing in the registry which has become worn,
33 mutilated or indistinct, if so directed by the Commission.

34 h. by striking from section 28 the words "at the expense of the
35 county;"

36 i. by striking section 29;

37 j. by striking section 30;

38 k. by striking from section 33 the words "their respective
39 counties" and inserting in place thereof the words "Massachusetts
40 Land Records Commission established by Chapter of the
41 Acts of 1987"

42 l. by striking out section 38 and inserting in place thereof the
43 following new section: —

44 Section 38. Registers shall annually be allowed for clerical
45 assistance in the respective registries established by Chapter
46 of the Acts of 1987; such amounts as shall be approved by the
47 Commission and

48 m. by striking out section 39 and inserting in place thereof the
49 following new section: —

50 Section 39. Each register shall enter in a cash book, which shall
51 be the property of the Massachusetts Land Records Commission
52 established by Chapter of Acts of 1987 all fees received by
53 him for all official acts and services; and he shall, on the first day
54 of each month, pay to the Commission all fees received during
55 the preceding month, and shall render to the Commission a sworn
56 account thereof.

1 SECTION 17. General Laws, Chapter 185 Amended Chapter
2 185 of the General Laws is hereby amended:

3 a. by striking from section 11 the words "in the same manner
4 as accounts of registers of deeds;"

5 b. by striking the last paragraph from section 14 and inserting
6 in place thereof the paragraph: —

7 All salaries and expenses of the court shall be paid by the
8 commonwealth, except the salaries of the assistant recorders and
9 the expenses incurred by them under this chapter and the
10 compensation and expenses of their technical assistants appointed
11 under section ten A, which shall be paid by the Massachusetts
12 Land Records Commission established by Chapter of the
13 Acts of 1987. All fees collected by the assistant recorders, except

14 those received upon the filing of petitions, which shall be
15 transmitted with the petitions to the recorder, shall be paid to the
16 Commission;

1 SECTION 18. Effective Date

2 This act shall take effect on January first, nineteen hundred and
3 eighty-eight.