

SENATE No. 162

To accompany the petition of Frank Hurley that provision be made for the establishment of titles to land and interests therein in addition to the registration of such titles. Legal Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Thirty-One.

An Act to provide for the Establishment of Titles to Land and Interests therein in Addition to the Registration of Such Titles.

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 one of chapter one hun-
2 dred and eighty-five of the General Laws is
3 hereby amended by inserting after the word
4 "registration" in the first line, the words:—
5 and for the establishment, — so that subsection
6 (a) will read as follows:— (a) Petitions for the
7 registration and for the establishment of title
8 to land and easements or rights in land held
9 and possessed in fee simple within the common-
10 wealth, with power to hear and determine all
11 questions arising upon such petitions, and such
12 other questions as may come before it under
13 this chapter, subject to all rights to jury trial
14 and of appeal provided by law. The proceedings

15 upon such petitions shall be proceedings in rem
16 against the land, and the decrees shall operate
17 directly on the land and vest and establish title
18 thereto.

1 SECTION 2. Said chapter one hundred and
2 eighty-five is hereby further amended by in-
3 serting after section twenty-six the following
4 new section: —

5 *Section 26A.* Petitions to establish title to
6 land may be made by the following persons:

7 First, Persons who claim, singly or collectively,
8 to own a legal estate or easements or rights in
9 land held and possessed in fee simple.

10 Second, Persons who claim, singly or collec-
11 tively, to have the power of appointing or dis-
12 posing of the legal estate or easements or rights
13 in land held and possessed in fee simple.

14 Third, Infants and other persons under dis-
15 ability, by their legally appointed guardians;
16 but the person in whose behalf the petition is
17 made shall be named as petitioner.

18 Fourth, Corporations by any officer duly
19 authorized by a vote of the directors.

1 SECTION 3. Said chapter one hundred and
2 eighty-five is hereby further amended by in-
3 serting after section fifty-six the following three
4 sections: —

5 *Section 56A.* Petitions to establish title and
6 all proceedings thereunder shall be governed
7 by the provisions of this chapter and all acts

8 in amendment thereof, applicable to petitions
9 for the registration of title except as hereinafter
10 provided, and where the context so requires
11 the word "established" shall have the same
12 effect as the words "confirmed" and "registered"
13 and the word "establishment" shall have the
14 same effect as the words "confirmation" and
15 "registration". A copy of the decree issued
16 pursuant to such petition for establishment of
17 title shall be recorded in the registry of deeds
18 for the district where the land, or any portion
19 thereof, lies, and upon such recording the owner
20 of such land, as established by such decree, shall
21 hold the title thereto free from all incumbrances
22 except those set forth or referred to in said
23 decree and those specified in section forty-six
24 of this chapter.

25 *Section 56B.* The person or persons who singly
26 or collectively, appear as registered owners in a
27 certificate of title issued pursuant to the pro-
28 visions of this chapter, may petition to establish
29 title to the land and interests described in such
30 certificate, but no registered owner of an undi-
31 vided interest shall petition without the joinder
32 of all co-owners.

33 Such petition shall be filed in duplicate to-
34 gether with the owners' duplicate certificate of
35 title with the assistant recorder for the district
36 in which such land or any part thereof lies. The
37 assistant recorder shall immediately endorse a
38 note of said petition upon the record and owners'
39 duplicate certificates of title, file one copy of

40 said petition and mail the remaining copy to-
41 gether with the owners' duplicate certificate of
42 title to the recorder of the land court together
43 with the entry fee therefor, and thereafter the
44 petition shall be dealt with in the same manner
45 as petitions to establish title to land not registered.

46 A copy of the decree issued pursuant to such
47 petition shall be recorded as provided in the
48 preceding section and thereafter no further cer-
49 tificate of title shall be issued affecting the land
50 or interest therein described.

51 Nothing herein contained shall be so con-
52 strued as to prevent the registration of title to
53 land or easements under the provisions of this
54 chapter on proceedings commenced either prior
55 to or subsequent to a decree establishing title.

56 *Section 56C.* The provisions of this chapter
57 so far as they affect the dealing with land and
58 interests in land subsequent to the issuance of
59 the decree shall not be applicable to land the
60 title to which has been established but said land
61 and interests in land shall be dealt with as un-
62 registered land.

63 In proceedings based upon petitions to estab-
64 lish title the petitioner shall not be obligated to
65 pay the sums established by section ninety-nine.

1 SECTION 4. This act shall take effect on
2 January first, nineteen hundred and thirty-two.