

By Mr. Antonioni of Leominster, petition of Robert A. Antonioni for legislation to clarify the construction of certain real estate instruments. The Judiciary.

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**The Commonwealth of Massachusetts**

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In the Year One Thousand Nine Hundred and Ninety.

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AN ACT TO CLARIFY THE CONSTRUCTION OF CERTAIN REAL ESTATE INSTRUMENTS.

*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 183 of the General Laws is hereby  
2 amended by striking out section 58, as appearing in the 1988  
3 Official Edition, and inserting in place thereof the following  
4 section: —

5 Section 58. Every instrument passing title to real estate abutting  
6 a way, whether public or private, watercourse, wall, fence, or other  
7 similar linear monument, shall be construed to include any fee  
8 interest of the grantor, in such monument, unless (a) the grantor  
9 retains other real estate abutting such monument, in which case,  
10 (i) if the retained real estate is on the same side, the division line  
11 between the land granted and the land retained shall be continued  
12 into such monument as far as the grantor owns, or (ii) if the  
13 retained real estate is on the other side of such monument between  
14 the division lines extended, the title conveyed shall be to the center  
15 line of such monument as far as the grantor owns, or (b) the  
16 instrument evidences a different intent by an express exception  
17 or reservation and not alone by bounding by a side line.

1 SECTION 2. Section fifty-eight of chapter one hundred and  
2 eighty-three of the General Laws, as amended by section one of  
3 this act, shall take effect on January the first, nineteen hundred  
4 and ninety and shall apply to instruments executed on and after

5 said effective date and to instruments executed prior thereto,  
 6 except that as to such prior executed instruments this act shall  
 7 not apply to land registered and confirmed under the provisions  
 8 of chapter one hundred and eighty-five before said effective date  
 9 or to the extent that any person or his predecessor in title has  
 10 changed his position as a result of a decision of a court of  
 11 competent jurisdiction.