

SENATE No. 692

By Mr. Aylmer, a petition (accompanied by bill, Senate, No. 692) of William I. Randall, Marilyn M. Sullivan and John E. Fenton, Jr., justices of the Land Court, John F. Aylmer and other members of the Senate for legislation to facilitate the registration of condominiums. The Judiciary.

The Commonwealth of Massachusetts

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

AN ACT TO FACILITATE THE REGISTRATION OF CONDOMINIUMS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 *Condominium Registration.* Except as otherwise provid-
2 ed in this section, petitions for condominium registration
3 and all proceedings thereunder, shall be governed by the
4 provisions of Chapter 185 of the General Laws applicable
5 to petitions and proceedings for the confirmation and regis-
6 tration of title to land. A petition for condominium registra-
7 tion may be filed by the owner of real estate or by an organ-
8 ization of unit owners established pursuant to Chapter 183A
9 of the General Laws on behalf of all unit owners, if author-
10 ized in the same manner as the by-laws of the organization
11 may be amended, whether or not the master deed or by-laws
12 specifically provide such authority. The petitioner shall in-
13 clude with his petition a master deed description based upon a
14 plan of the land which is acceptable to the court.

15 The location of building or buildings comprising the condo-
16 minium or proposed condominium shall be shown on the plan
17 as accepted by the court. If the petitioner indicates that addi-
18 tional units are to be built, and the undivided interest of the
19 unit owners will thereupon change, the proposed phased areas
20 shall be shown and clearly labelled on the plan. The petitioner
21 shall submit floor plans meeting the requirements of Section
22 8(f) of Chapter 183A of the General Laws. The petitioner
23 shall also include with the petition a land court examiner's
24 report of title on such form as the court may prescribe con-

25 cluding with a certificate of his opinion upon the title. Follow-
26 ing the filing of the petition, the recorder shall order that
27 notice be given to any person or persons who appear on the
28 basis of the petition to have an interest in or a claim to the
29 land included in the petition, abutters to the land as set forth
30 in the petition, and such other notice as the recorder may de-
31 termine necessary. If, after notice and opportunity for hear-
32 ing, or after hearing, the court finds that the petitioner has
33 title proper for condominium registration, a decree of condo-
34 minium registration shall be entered; provided, however, that
35 the court shall not be bound by the report of the examiner of
36 title or other evidence of title filed with the petition, but may
37 require other or further proof of title to be filed, including any
38 evidence of title subsequent to the filing of the master deed,
39 prior to entering the decree of condominium registration. No
40 decree of condominium registration shall become effective
41 until the condominium has been formed pursuant to Chapter
42 183A of the General Laws. The court may, by rule, proce-
43 dure or direction, provide for a separate memorandum of unit
44 ownership for each unit in the condominium.

45 Upon recording in the southern middlesex registry of deeds
46 of notice of disposition issued pursuant to a petition of con-
47 dominium registration, the owner, as determined by the de-
48 cree of condominium registration, shall hold the title subject
49 to any preexisting interests as of the effective date of the
50 decree unless the decree states to the contrary, but free from
51 all other encumbrances except those set forth or referred to
52 in the decree and those specified in Section 46; provided, how-
53 ever, that no title to land or estate or right therein, in deroga-
54 tion of the title to land confirmed and registered with bound-
55 ary determination pursuant to the provisions of Chapter 185
56 of the General Laws, whether prior or subsequent thereto,
57 shall be cut off or extinguished by a decree of condominium
58 registration issued pursuant to the provisions of this section.