SENATE DOCKET, NO. 117 FILED ON: 1/11/2013

SENATE . . . . . No. 778

The Commonwealth of Massachusetts

PRESENTED BY:

Michael J. Rodrigues

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:

An Act to expedite the transfer of cases to the permit session of land court .

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Michael J. Rodrigues	*First Bristol and Plymouth*

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SENATE . . . . . No. 778

By Mr. Rodrigues, a petition (accompanied by bill, Senate, No. 778) of Michael J. Rodrigues for legislation to expedite the transfer of cases to the permit session of land court . The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
SENATE
, NO. *1712* OF 2011-2012.]

The Commonwealth of Massachusetts

An Act to expedite the transfer of cases to the permit session of land court .

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

SECTION 1. Section 3A of Chapter 185 of the General Laws, as appearing in the most recent edition, is hereby amended by striking out the third paragraph in its entirety and inserting in place thereof the following:

The permit session shall have original jurisdiction, concurrently with the superior court department, over civil actions in whole or part: (a) based on or arising out of the appeal of any municipal, regional, or state permit, order, certificate or approval, or the denial thereof, concerning the use or development of real property for residential, commercial, or industrial purposes (or any combination thereof), including without limitation appeals of such permits, orders, certificates or approvals, or denials thereof, arising under or based on or relating to chapter 21, sections 61 to 62H, inclusive, of chapter 30, chapters 30A, 40A to 40C, inclusive, 40R, 41, 43D, 91, 131, 131A, or sections 4 and 5 of chapter 249, or chapter 665 of the acts of 1956; or any local bylaw or ordinance; (b) seeking equitable or declaratory relief (i) designed to secure or protect the issuance of any municipal, regional, or state permit or approval concerning the use or development of real property or (ii) challenging the interpretation or application of any municipal, regional, or state rule, regulation, statute, law, by-law, or ordinance concerning any permit or approval; (c) claims under section 6F of chapter 231, or for malicious prosecution, abuse of process, intentional or negligent interference with advantageous relations, or intentional or negligent interference with contractual relations arising out of, based upon, or relating to the appeal of any municipal, regional, state permit or approval concerning the use or development of

real property; and (d) any other claims between persons holding any right, title, or interest in land and any municipal, regional or state board, authority, commission, or public official based on or arising out of any action taken with respect to any permit or approval concerning the use or development of real property but in all such cases of claims (a) to (d), inclusive, only if the underlying project or development, in the case of a development that is residential or a mix of residential and commercial components, involves either 25 or more dwelling units or the construction or alteration of 25,000 square feet or more of gross floor area or both or, in the case of a commercial development, involves the construction or alteration of 25,000 square feet or more of gross floor area. Industrial development projects and any project in which an industrial use is a component of a mixed-use project shall not be subject to any such minimum thresholds.

SECTION 2. Said section 3A of chapter 185 of the General Laws is hereby further amended by deleting the fourth paragraph in its entirety and inserting in place thereof the following:

Notwithstanding any other general or special law to the contrary, any action not commenced in the permit session, but within the jurisdiction of the permit session as provided in this section, shall be transferred to the permit session, upon the filing by any party of a notice demonstrating compliance with the jurisdictional requirements of this section filed with the court where the action was originally commenced with a copy to the permit session. Unless the court where the action was originally commenced receives notice within 10 days from the permit session that the case to be transferred does not meet the jurisdictional requirements of this section, the original court shall transfer the case file to the permit session within 20 days of its receipt of the notice of transfer from the party. In the event the court receives notice of noncompliance with jurisdictional requirements, the court where the action was originally commenced shall decide the matter on motion filed by the party claiming noncompliance. If a party to an action commenced in or transferred to the permit session claims a valid right to a jury trial, then the action shall be transferred to the superior court for a jury trial.