

the description of any of the parcels set forth within this chapter contradicts or is otherwise inconsistent with the description of such parcels as shown upon said plan of record, then said plan of record and any subsequent plans of record shall control as to the accuracy and correctness of such description.

**SECTION 4.** Section 4 of said chapter 644 is hereby amended by striking out, in lines 2 and 3, the words "within three years of the effectiveness date of this act".

**SECTION 5.** Said section 4 of said chapter 644 is hereby further amended by inserting after the first sentence the following sentence:- In the event that the property described in section one reverts to the commonwealth, the deputy commissioner, notwithstanding any general or special law to the contrary, shall transfer the property described in section two to the Hull Redevelopment authority, or its successors, so long as the costs, fees and expenses of such transfer and the restoration of the properties are paid by the recipient.

**SECTION 6.** This act shall take effect upon its passage.  
Approved December 31, 1990.

**Chapter 494. AN ACT EXEMPTING CERTAIN POSITIONS IN THE TOWN OF BARNSTABLE FROM THE CIVIL SERVICE LAW.**

*Be it enacted, etc., as follows:*

**SECTION 1.** All positions in the town of Barnstable, except the positions of plumbing inspector, sealer of weights and measures and all police positions in the police department including chief, shall be exempt from the provisions of chapter thirty-one of the General Laws.

**SECTION 2.** The provisions of section one of this act shall not impair the civil service status of any person holding positions in the town of Barnstable on the effective date of this act.

**SECTION 3.** This act shall take effect upon its passage.  
Approved December 31, 1990.

**Chapter 495. AN ACT RELATIVE TO THE CREATION OF A DEPARTMENT OF PUBLIC WORKS IN THE TOWN OF BOURNE.**

*Be it enacted, etc., as follows:*

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, there is hereby created in the town of Bourne a department of public works, headed by a superintendent of public works.

**SECTION 2.** The superintendent of public works shall be appointed by the board of selectmen, and he shall exercise and perform, under its supervision and direction, such of the powers, rights and duties transferred to the department of public works under section three and such other powers, rights and duties as may from time to time be transferred to said department. He shall keep full and complete records of the doings of his office and shall render to the board of selectmen, as often as it may require, a full report of all operations under his control during the period reported upon. He shall keep the board of selectmen fully advised as to the needs of the town within the scope of his duties.

The position of superintendent of public works shall be a permanent classified position under the salary administration plan by-law of said town. The superintendent of public works shall be a registered civil engineer, or a person otherwise especially suited by education, training or previous experience to perform the duties of the office.

**SECTION 3.** The department of public works shall assume all of the duties and responsibilities, and perform all of the functions including, but not limited to, those which prior to the adoption of this act were performed by the highway division, tree and park maintenance division, sanitary landfill division, superintendent of public sewers, composting and recycling, and rubbish collection division.

**SECTION 4.** The department of public works shall be responsible for the maintenance and repair of town buildings and property.

**SECTION 5.** No person employed full-time on the effective date of this act in the highway, maintenance, park or sanitation divisions of the department of public works, shall be dismissed because of the passage hereof, nor shall any employee suffer reduction in their rank or compensation, or impairment of their retirement rights, or their vacations, personal days, sick days, holidays, seniority and other employee rights in the position held on the effective date of this act.

**SECTION 6.** The provisions of this act shall not impair the status of the present elected incumbent highway surveyor. Upon a vacancy in said office of the elected highway surveyor, or upon the conclusion of the term of office of the elected highway surveyor in nineteen hundred and ninety-five, whichever shall first occur, the powers and duties thereof shall be exercised and performed as provided in this act.

**SECTION 7.** This act shall take effect upon its passage.  
Approved December 31, 1990.

**Chapter 496. AN ACT RELATIVE TO THE FORECLOSURE OF MORTGAGES.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose,

which is, in part, to immediately clarify actions brought under the Soldiers' and Sailors' Civil Relief Act, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted, etc., as follows:*

**SECTION 1.** Section 1 of chapter 57 of the acts of 1943, as most recently amended by section 1 of chapter 127 of the acts of 1982, is hereby further amended by striking out the last paragraph and inserting in place thereof the following two paragraphs:-

In proceedings under this section, no person who is not a record owner of the equity of redemption in the mortgaged property and who is not entitled to the benefit of the Soldiers' and Sailors' Civil Relief Act, 50 USC Sections 510 to 591, inclusive, with respect to the mortgage, trust deed or other security described in the bill, whether named as a defendant in the bill or not, shall be entitled to appear or be heard in such proceeding, except on behalf of a person so entitled, or unless an affidavit by the claimant, or a certificate by counsel appearing for him, stating that he is entitled to the benefits of said act, is filed with the appearances. Such proceedings shall be limited to the issues of the existence of such persons and their rights if any. No proceedings shall be brought under this section in any case in which the record ownership of the equity of redemption in the mortgaged property is held by one or more of the following types of entities, whether domestic or foreign: a corporation; a limited partnership; a trust operating under a written instrument or declaration of trust, the beneficial interest under which is divided into transferable certificates of participation or shares; or a general partnership or joint venture of which all the general partners who appear of record so appear to be one or more of the foregoing types of entities. The court in which is brought any proceeding under this section shall not require or cause to be joined as a party or to be served with process in or notice of said proceeding any party interested in the mortgaged property other than the record owner thereof.

A decree by the court that no person is then subject to or is entitled to the benefits of the Soldiers' and Sailors' Civil Relief Act of 1940, or any amendments thereto hereafter enacted, shall forever bar the persons named in the bill or complainant from complaining that such foreclosure or seizure is invalid under said act.

**SECTION 2.** Said chapter 57 is hereby further amended by striking out section 2 and inserting in place thereof the following section:-

Section 2. A copy of said decree may be recorded in the registry of deeds and city or town clerk's office in which such mortgage is recorded, and if so recorded shall be conclusive evidence of compliance with the provisions of said Soldiers' and Sailors' Civil Relief Act of 1940, and any amendments thereto, in so far as the court

has power to determine the same, as against all persons, except that such copy shall not be conclusive evidence of such compliance against persons whose interests appeared of record prior to the recording of the notice of said proceeding unless they were named as defendants or had notice of said proceeding.

**SECTION 2A.** The provisions of this act shall not apply to members of the armed services while engaged, directly or indirectly, on active duty during the operation known as Desert Shield, whether members of regular armed services, reserves or members of the National Guard.

**SECTION 3.** This act shall take effect on January first, nineteen hundred and ninety-one and shall apply to any complaint filed after said date in accordance with the provisions of this act.

Approved December 31, 1990.

#### **Chapter 497.**

### **AN ACT AUTHORIZING THE TOWN OF PEMBROKE TO REIMBURSE CERTAIN MONIES PAID IN ERROR AS REAL ESTATE TAXES.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The town of Pembroke is hereby authorized to reimburse Robert S. Holt the sum of five hundred and ninety dollars and ninety-nine cents paid to said town as real estate taxes in error for the fiscal year nineteen hundred and eighty-nine on property described as parcel 150 on the assessors map B-5 for said town.

**SECTION 2.** This act shall take effect upon its passage.

Approved December 31, 1990.

#### **Chapter 498.**

### **AN ACT PROVIDING FOR THE INCREASED PROTECTION OF PUBLIC EMPLOYEES AGAINST ASSAULT AND BATTERY WHILE PERFORMING OFFICIAL DUTIES.**

*Be it enacted, etc., as follows:*

Chapter 265 of the General Laws is hereby amended by striking out section 13D, as appearing in the 1988 Official Edition, and inserting in place thereof the following section:-

Section 13D. Whoever commits an assault and battery upon any public employee when such person is engaged in the performance of his duties at the time of such assault and battery, shall be punished by imprisonment for not less than