

By Mr. Tisei of Wakefield, petition of Richard R. Tisei relative to the deferral of water and sewer charges for certain persons sixty-five years of age and over. Taxation.

The Commonwealth of Massachusetts

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

AN ACT RELATIVE TO THE DEFERRAL OF WATER AND SEWER CHARGES FOR CERTAIN CITIZENS SIXTY-FIVE YEARS OF AGE AND OVER.

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 42J of Chapter 40 of the General Laws,
2 as added by section two of Chapter 42 of the Acts of 1988, is hereby
3 amended by striking out said section and inserting in place thereof
4 the following: —

5 Section 42J. In a city, town or district which accepts the
6 provisions of this section, the board of assessors shall, upon the
7 application of the owner of the real property to which the water
8 is supplied if such owner is receiving or is eligible to receive an
9 exemption from property taxes under clause Forty-first A of
10 section five of chapter fifty-nine with respect to such property,
11 notify the board that imposes such charges of the owner's right
12 to defer charges for water supplied to such property. An
13 application for deferral may be filed with the assessors within the
14 time limit established for the filing of an application for exemption
15 under said clause Forty-first A.

16 The board that imposes such charges shall notify the board of
17 assessors of any unpaid water rates and charges to be added to
18 the tax bill of any owner who has so applied and is eligible to
19 receive said deferral. Such charges shall be committed by the
20 assessors along with the real estate tax for each fiscal year, and
21 secured by the statement of lien executed pursuant to said chapter
22 Forty-first A, or pursuant to section sixteen G of chapter eighty-
23 three or, if the owner is not receiving an exemption from property
24 taxes under said clause, or a deferral of sewer charges under said
25 section sixteen G of chapter eighty-three, a separate deferral and

26 recovery agreement shall be entered into between the property
27 owner and the assessors on behalf of the city, town or district
28 pursuant to the provisions of clause Forty-first A and the charges
29 deferred under this section shall be secured by the statement of
30 lien recorded pursuant to said agreement.

31 No additional notice or statement of lien need be recorded or
32 registered with respect to such deferred water charges, but the
33 amount of such deferred charges shall be listed on any certificate
34 of liens issued under the provisions of section twenty-three,
35 twenty-three A or twenty-three B of chapter sixty.

1 SECTION 2. Section 16G of Chapter 83 of the General Laws,
2 as added by section four of Chapter 42 of the Acts of 1988, is
3 hereby amended by striking out said section and inserting in place
4 thereof the following: —

5 Section 16G. In a city, town or district which accepts the
6 provisions of this section, the board of assessors shall, upon the
7 application of the owner of the real property to which sewer
8 service is supplied, if such owner is receiving or is eligible to receive
9 an exemption from property taxes under clause forty-first A of
10 section five of chapter fifty-nine with respect to such property,
11 notify the board that imposes such charges of the owner's right
12 to defer charges for sewer service supplied to such property. An
13 application for deferral may be filed with the assessors within the
14 time limit established for the filing of an application for exemption
15 under said clause forty-first A.

16 The board that imposes such charges shall notify the board of
17 assessors of any unpaid sewer rates and charges to be added to
18 the tax bill of any owner who has so applied and is eligible to
19 receive said deferral. Such charges shall be committed by the
20 assessors along with the real estate taxes for each fiscal year, and
21 secured by the statement of lien executed pursuant to said clause
22 forty-first A, or pursuant to section forty-two J of chapter forty;
23 if the owner is not receiving an exemption from property taxes
24 under said clause, or a deferral of water charges under said section
25 forty-two J of chapter forty, a separate deferral and recovery
26 agreement shall be entered into between the property owner and
27 the assessors on behalf of the city, town or district pursuant to
28 the provisions of clause forty-first A and the charges deferred

29 under this section shall be secured by the statement of lien
30 recorded pursuant to said agreement.

31 No additional notice or statement of lien need be recorded or
32 registered with respect to such deferred sewer charges, but the
33 amount of such deferred charges shall be listed on any certificate
34 of liens issued under the provisions of section twenty-three,
35 twenty-three A or twenty-three B of chapter sixty.

1 SECTION 3. Clause forty-first A of section 5 of chapter 59 of
2 the General Laws, as appearing in the 1986 Official Edition, is
3 hereby amended by striking out all words beginning with the
4 sentence beginning on line 813 and continuing through line 855,
5 and inserting in place thereof the following: —

6 The board of assessors shall grant such exemption, provided
7 that the owner or owners of such real property have entered into
8 a deferral and recovery agreement with said board of assessors
9 on behalf of the city, town or district. The said agreement shall
10 provide:

11 (1) that no sale or transfer of such real property may be
12 consummated unless the taxes, or other charges which may be
13 deferred under any other provision of law, which would otherwise
14 have been assessed on such portion of the real property as is so
15 exempt have been paid, with interest at the rate of eight per cent
16 per annum;

17 (2) that the total amount of such taxes or other charges due,
18 plus interest, for the current and prior years does not exceed fifty
19 per cent of the owner's proportional share of the full and fair cash
20 value of such real property;

21 (3) that upon the demise of the owner of such real property,
22 the heirs-at-law, assignees or devisees shall have first priority to
23 said real property by paying in full the total taxes or other charges
24 which would otherwise have been due, plus interest; provided,
25 however, if such heir-at-law, assignee or devisee is a surviving
26 spouse who enters into a deferral and recovery agreement under
27 this clause, payment of the taxes, charges and interest due shall
28 not be required during the life of such surviving spouse. Any
29 additional taxes or other charges deferred, plus interest, on said
30 real property under a deferral and recovery agreement signed by
31 a surviving spouse shall be added to the taxes, charges and interest
32 which would otherwise have been due, and the payment of which

33 has been postponed during the life of such surviving spouse, in
34 determining the fifty per cent requirement of subparagraph (2);

35 (4) that if the taxes or other charges due, plus interest, are not
36 paid by the heir-at-law, assignee or devisee or if payment is not
37 postponed during the life of a surviving spouse, such taxes and
38 interest shall be recovered from the estate of the owner; and

39 (5) that any joint owner or mortgagee holding a mortgage on
40 such property has given written prior approval for such
41 agreement, which written approval shall be made a part of such
42 agreement.

43 In the case of each deferral and recovery agreement entered into
44 between the board of assessors and the owner or owners of such
45 real property, the said board of assessors shall forthwith cause
46 to be recorded in the registry of deeds of the county or district
47 in which the city, town or district is situated a statement of their
48 action which shall constitute a lien upon the land covered by such
49 agreement for such taxes or other charges as have been assessed
50 under the provisions of this chapter or under chapters forty or
51 eighty-three, plus interest as hereinafter provided. The statement
52 shall name the owner or owners and shall include a description
53 of the land adequate for identification. Unless such a statement
54 is recorded the lien shall not be effective with respect to a bona
55 fide purchaser or other transferee without actual knowledge of
56 such lien. The filing fee for such statement shall be paid by the
57 city or town and shall be added to and become part of the taxes
58 due.

1 SECTION 4. Clause forty-one A of section five of chapter
2 fifty-nine is hereby further amended by inserting before the last
3 paragraph, added by section 3 of chapter 42 of the acts of 1988,
4 the following paragraph: —

5 If the applicant has entered into a deferral and recovery
6 agreement with the city, town or district for the deferral of water
7 charges under the provisions of section 42J of Chapter 40 or sewer
8 charges under the provisions of section 16G of Chapter 83, and
9 a statement of lien has been recorded or registered under either
10 of those sections, then no additional agreement need be executed
11 under this clause, and taxes deferred under this clause shall be
12 secured by said statement of lien.