

By Mr. Vigneau of Burlington, petition of Robert A. Vigneau, Ronald C. MacKenzie and others that cities and towns be assessed a penalty for failure to assess property at full and fair cash value. Taxation.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Two.

AN ACT PROVIDING A REMEDY AGAINST CITIES AND TOWNS WHEREIN PROPERTY IS NOT ASSESSED AT FULL AND FAIR VALUE.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide for a remedy against cities and towns wherein property is not assessed at full and fair value, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

1 Chapter 59 of the General Laws is hereby amended by
2 inserting after section 52 the following section: —
3 *Section 52A.* If any city or town shall substantially fail to
4 assess the real property therein at full and fair cash value in any
5 year, the attorney general, the district attorney for the district in
6 which said city or town is located, any resident of said city or
7 town, or any other city or town in the commonwealth may bring
8 in the supreme judicial court for the county of Suffolk a bill in
9 equity to require said city or town to assess all property therein
10 at full and fair cash value. A bill brought under this section shall
11 not be subject to the provisions of section four A of chapter two
12 hundred and eleven. If after hearing the court finds that the real
13 property in the defendant city or town is not substantially
14 assessed at full and fair valuation, it shall impose upon said city
15 or town a penalty to be determined by subtracting from one

16 hundred the average assessed percentage of full valuation and
17 multiplying the difference by five thousand dollars. If the bill
18 hereunder is brought by the attorney general, the district
19 attorney or a resident of the city or town, the penalty shall be
20 forfeit to the commonwealth. If the bill is brought by another
21 city or town, the forfeiture shall be paid to the city or town
22 bringing the bill. If the bill is brought by a resident or by another
23 city or town, the final decree shall further provide for costs to be
24 paid including reasonable attorneys' fees to the plaintiff and, in
25 such a case, if the bill is ordered to be dismissed after hearing of
26 the merits, the court shall award attorneys' fees to be paid by the
27 plaintiff to the defendant. If a bill is brought by any city or town
28 against another city or town pursuant to this section, the
29 defendant may by answer set up a counterclaim that the plaintiff
30 has substantially failed to assess the real property therein at full
31 and fair cash value. If such a counterclaim is filed, the bill shall
32 not be dismissed by consent or otherwise but shall be decided
33 upon the merits. If the allegations of both the bill and the
34 counterclaim are found to be true, the penalty declared herein
35 shall be assessed against both the plaintiff and the defendant and
36 paid to the commonwealth, and neither the plaintiff nor the
37 defendant shall recover costs or attorneys' fees.