

By Mr. Viveiros of Fall River, petition of Carlton M. Viveiros for legislation to grant the Department of Public Welfare a lien to the extent of home repairs accomplished with assistance of the department. Human Services and Elderly Affairs.

The Commonwealth of Massachusetts

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

AN ACT GRANTING THE DEPARTMENT OF PUBLIC WELFARE A LIEN TO THE EXTENT OF HOME REPAIRS ACCOMPLISHED WITH ASSISTANCE OF THE DEPARTMENT.

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 18 of the General Laws is hereby amended by inserting
2 after section 20 the following section:

3 *Section 20A.* In any instance in which the department grants
4 assistance towards the repair of a home under Chapter one
5 hundred eighteen, one hundred eighteen A, or one hundred
6 eighteen D, a lien shall be placed on the home to the extent of the
7 assistance granted toward the repair of the home.

8 The lien shall be recorded in the registry of deeds for the
9 county, where each parcel lies, without the payment of any fee for
10 such recording. Each such instrument shall contain a description
11 sufficient to the lien which lien shall be superior to any deed,
12 mortgage, lien or other encumbrance thereafter recorded.

13 Such lien shall be enforceable in the superior court by a
14 petition in equity brought by the department's agent against all
15 persons appearing of a record to be interested in the real estate
16 subject to such lien, whether as equity owners, mortgagees,
17 lienors, attaching creditors or otherwise. Such petition shall
18 allege the amount claimed under such lien and incorporate a
19 certified copy of the recorded instrument creating such lien. At
20 any time before final decree, the court of its own motion or upon
21 the suggestion of any party, may issue a precept to any other
22 person on or before a specified day or be forever barred from
23 redeeming such lien. Proceeds realized through any such

24 enforcement shall be apportioned between the Commonwealth
25 and the federal government in proportion to the amount
26 contributed, without interest. It shall be the duty of the
27 department to take action upon the death of the recipient or his
28 otherwise ceasing to receive assistance under chapters one
29 hundred eighteen, one hundred eighteen A, one hundred eighteen
30 D, to enforce any such lien; but such action shall be taken only
31 with the written approval of the department, which shall be
32 granted together with an order of the department that such action
33 be commenced with in a specified period of time, unless, in the
34 opinion of the department, such enforcement will cause undue
35 hardship; provided, further, that no lien under this section shall
36 be enforced against any real property so long as the surviving
37 spouse of the deceased recipient continues to reside thereon. The
38 commissioner, in his discretion, may, if undue hardship might be
39 caused by enforcement, waive enforcement in whole or in part,
40 and order a discharge to the extent waived.