

By Mr. Wall, petition (accompanied by bill, Senate, No. 895) of Erving H. Wall, Jr., for legislation relative to the powers of boards of health in cities and towns. Local Affairs.

The Commonwealth of Massachusetts

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

AN ACT RELATIVE TO BOARDS OF HEALTH IN CITIES AND TOWNS.

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 111 of the General Laws is hereby amended by inserting
2 after section 127B, as appearing in the 1990 Official Edition, the
3 following section: —

4 Section 127B½. At any time prior to or during the course of
5 proceedings conducted pursuant to section one hundred and
6 twenty-seven, the owner of a structure used for human habitation
7 may petition the board of health in a city or town to make findings
8 consistent with its authority under said section one hundred and
9 twenty-seven and may enter into an agreement authorizing such
10 board of health to cause the premises to be properly cleaned and
11 any unfitness, source of filth, nuisance or cause of sickness or
12 accident abated at the owner's expense. An owner who enters into
13 such an agreement shall be responsible for all expenses incurred
14 by the board of health, directly or indirectly, for such cleaning
15 and abatement. Such agreement shall be recorded as a betterment
16 pursuant to section two of chapter eighty and the amount assessed
17 shall be collected pursuant to section four of said chapter eighty
18 and shall be a lien on the property pursuant to section five of said
19 chapter eighty and may be apportioned and reapportioned
20 pursuant to section thirteen of said chapter eighty; provided,
21 however, that such assessment shall bear interest at a rate
22 determined by the board of health by agreement with the owner
23 but, in no event, shall such interest rate be less than the rate of

24 interest chargeable to the city or town for the financing of such
25 cleanup or abatement.

26 Any appropriation or borrowing by the city or town for
27 purposes of cleanup or abatement pursuant to this section shall
28 not be included for the purpose of computation of the levy or
29 borrowing limits otherwise imposed upon such city or town by
30 the General Laws.

31 An agreement between an owner and a board of health in a
32 city or town pursuant to this section shall not be considered a
33 breach of a limitation or prohibition contained in a note, mortgage
34 or contract on the transfer of an interest in property.

35 A board of health in a city or town acting pursuant to the
36 provisions of this section shall have the same authority as set forth
37 in section one hundred and twenty-seven B to institute an action
38 for eviction. Any such action by the board of health shall not
39 otherwise impair the rights or obligations of the occupants or
40 owner with respect to each other.