

HOUSE No. 5900

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, May 16, 1972.

The committee on Social Welfare, to whom was referred the petition (accompanied by bill, House, No. 2190) of Carlton Viveiros for legislation to place a lien on real estate of recipients of public welfare, report recommending that the accompanying bill (House, No. 5900) ought to pass.

For the committee,

MICHAEL F. FLAHERTY

The Commonwealth of Massachusetts

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

AN ACT PROVIDING LIENS FOR HOME REPAIRS.

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 insert-
2 ing 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
7 the assistance granted toward the repair of the home.

8 The lien shall be recorded in the records of the county, or of
9 the district if such county is divided into districts, where each
10 parcel lies, without the payment of any fee for such recording.
11 Each such instrument shall contain a description sufficient to the
12 lien which lien shall be superior to any deed, mortgage, lien or
13 other encumbrance thereafter recorded. Whenever, such lien is
14 satisfied or is ordered discharged as hereinafter provided, an
15 instrument signed and acknowledged by such department's agent
16 and reciting such fact shall be given and upon the recording of
17 such instrument such lien shall be dissolved.

18 Such lien shall be enforceable in the superior court for the
19 county where any parcel of the real estate lies by a petition in
20 equity brought by the department's agent against all persons
21 appearing of record to be interested in the real estate subject to
22 such lien, whether as equity owners, mortgagees, lienors,
23 attaching creditors or otherwise. Such petition shall allege the
24 amount claimed under such lien and incorporate a certified copy
25 of the recorded instrument creating such lien. At any time before
26 final decree, the court of its own motion or upon the suggestion
27 of any party, may issue a precept to any other person on or
28 before a specified day or be forever barred from redeeming such
29 lien. Proceeds realized through any such enforcement shall be
30 apportioned between the Commonwealth and the federal

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

