

SENATE No. 1706

By Mr. Tisei, a petition (accompanied by bill, Senate, No. 1706) of Richard R. Tisei, Patrick C. Guerriero and Brian M. Cresta for legislation relative to the deferral of water and sewer charges for certain citizens sixty-five years of age or over. Taxation.

The Commonwealth of Massachusetts

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

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
3 hereby amended by striking out said section and inserting in place
4 thereof the following:—

5 Section 42J. In a city, town, or district which accepts the provi-
6 sions of this section, the board of assessors shall, upon the appli-
7 cation of the owner of the real property to which the water is
8 supplied if such owner is receiving or is eligible to receive an
9 exemption from property taxes under clause Forty-first A of sec-
10 tion five of chapter fifty-nine with respect to such property, notify
11 the board that imposes such charges of the owner's right to defer
12 charges for water supplied to such property. An application for
13 deferral may be filed with the assessors within the time limit
14 established for the filing of an application for exemption under
15 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 the
18 tax bill of any owner who has so applied and is eligible to receive
19 said deferral. Such charges shall be committed by the assessors
20 along with the real estate taxes for each fiscal year, and secured
21 by the statement of lien executed pursuant to said chapter Forty-
22 first A, or pursuant to section sixteen G of chapter eighty-three or,

23 if the owner is not receiving an exemption from property taxes
24 under said clause, or a deferral of sewer charges under said sec-
25 tion 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 pur-
28 suant 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 provision 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 provi-
6 sions of this section, the board of assessors shall, upon the appli-
7 cation of the owner of the real property to which sewer service is
8 supplied, if such owner is receiving or is eligible to receive an
9 exemption from the 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 to
12 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 exemp-
15 tion under said clause forty-first A of section five of chapter fifty-
16 nine with respect to such property, notify the board that imposes
17 such charges of the owner's right to defer charges for sewer
18 service supplied to such property. An application for deferral may
19 be filed with the assessors within the time limit established for the
20 filing of an application for exemption under said clause forty-
21 first A.

22 The board that imposes such charges shall notify the board of
23 assessors of any unpaid sewer rates and charges to be added to the
24 tax bill of any owner who has so applied and is eligible to receive
25 said deferral. Such charges shall be committed by the assessors

26 along with the real estate taxes for each fiscal year, and secured
27 by the statement of lien executed pursuant to said clause forty-
28 first A, or pursuant to section forty-two J of chapter forty; if the
29 owner is not receiving an exemption from property taxes under
30 said clause, or a deferral of water charges under said section forty-
31 two J of chapter forty, a separate deferral and recovery agreement
32 shall be entered into between the property owner and the assessors
33 on behalf of the city, town or district pursuant to the provisions of
34 clause forty-first A and the charges deferred under this section
35 shall be secured by the statement of lien recorded pursuant to said
36 agreement.

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

1 SECTION 3. Clause forty-first 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 sen-
4 tence beginning on line 813 and continuing through line 855, and
5 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 a
8 deferral or recovery agreement with said board of assessors on
9 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 con-
12 summated 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 percent
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 percent 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, the
22 heir-at-law, assignees or devisees shall have first priority to said

23 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 recovers 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 addi-
29 tional taxes or other charges deferred, plus interest, on said real
30 property under a deferral and recovery agreement signed by a sur-
31 viving 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 percent requirement of subparagraph (2);

35 (4) That if the taxes or the other charges due, plus interest are
36 not paid by the heir-at-law, assignee or devisee or if payment is
37 not 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 agree-
41 ment, which written approval shall be made a part of such agree-
42 ment.

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

1 SECTION 4. Clause forty-one A of section five of chapter fifty-
2 nine is hereby amended by inserting before the last paragraph,

3 added by section 3 of chapter 42 of the Acts of 1988, the fol-
4 lowing paragraph: —

5 If the applicant has entered into a deferral and recovery agree-
6 ment 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 provision of section 16G of Chapter 83, and a
9 statement of lien has been recorded or registered under either of
10 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.

