

By Mr. Hargraves of Groton, petition of Robert S. Hargraves relative to the protection of water supplies in cities and towns. Natural Resources and Agriculture.

The Commonwealth of Massachusetts

In the Year Two Thousand and One.

AN ACT RELATIVE TO THE PROTECTION OF THE WATER SUPPLY.

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
2 inserting after section 127B½ the following section:—
3 Section 127B¾. An owner of a structure with a private water
4 supply well or wells may petition the board of health of a city or
5 town to determine that such private water supply wells have failed
6 and that such failure presents a risk to public health and may enter
7 into an agreement, subject to appropriation authorized by the
8 board of health or such owner to cause the premises to be properly
9 serviced by a water supply at the owner's expense. An owner who
10 enters into such an agreement shall be responsible for all expenses
11 incurred by the board of health, directly or indirectly, or required
12 by the board of health as incurred by the owner in providing for
13 such water supply. A notice of such agreement shall be recorded
14 as a betterment and be subject to the provisions of chapter 80
15 relative to the apportionment, division, reassessment and collec-
16 tion of assessment, abatement and collections of assessments, and
17 to interest; provided, however that for purposes of this section,
18 such lien shall take effect by operation of law on the day immedi-
19 ately following the due date of such assessment or apportioned
20 part of such assessment and such assessment may bear interest at
21 a rate determined by the city or town treasurer by agreement with
22 the owner at the time such agreement is entered into between the
23 board of health and the property owner. In addition to remedies
24 available under chapter 80, the property owner shall be personally

25 liable for the repayment of the total costs incurred by the city or
26 town under this section; provided, however, that upon assumption
27 of such personal obligation to a purchaser or other transferee of all
28 of the original owners interest in the property at the time of con-
29 veyance and the recording of such assumption, the owner shall be
30 relieved of such personal liability.

31 Any costs incurred under the provisions of this section may be
32 funded by an appropriation or issuance of debt, provided that any
33 debt incurred shall be subject to the provisions of chapter 44 and
34 shall not exceed 20 years.

35 Any appropriation or borrowing by the city or town for pur-
36 poses contained within this section shall not be included for the
37 purpose of computation of the levy or borrowing limits otherwise
38 imposed upon such city or town by the general laws.

39 An agreement between an owner and a board of health in a city
40 or town pursuant to this section shall not be considered a breach
41 of limitation or prohibition contained in a note, mortgage or con-
42 tract on the transfer of an interest in property.

43 A board of health in a city or town acting pursuant to the provi-
44 sions of this section shall have the same authority as set forth in
45 section 127B to institute an action for eviction. Any such action
46 by the board of health shall not otherwise impair the rights or
47 obligations of the occupants or owner with respect to each other.

48 Notwithstanding any provision of chapter 183A to the contrary,
49 the organization of unit owners of a condominium may petition to
50 the board of health in a city or town to enter into a betterment
51 agreement pursuant to this section to provide a proper water
52 supply system serving a unit, one or more of which is used for
53 human habitation provided that such system comprises part of the
54 common areas and facilities. Such agreement shall: (i) be
55 approved by a majority of the unit owner benefited by the repair,
56 replacement or upgrade of the septic system or any combination
57 of such septic system improvements; (ii) include an identification
58 of the units and unit owners subject to the agreement and the per-
59 centages, as set forth in the master deed, of the undivided interests
60 of the respective units in the common area and facilities; and (iii)
61 include a statement by an officer or trustee of the organization of
62 unit owners certifying that the required number of unit owners
63 have approved the agreement. As between the affected unit
64 owners and the city or town, such certification shall be conclusive

65 evidence of the authority of the organization of unit owners to
66 enter into the agreement. A notice of such agreement shall be
67 recorded as a betterment in the registry of deeds or registry dis-
68 trict of the land court where the master deed is recorded and shall
69 be otherwise subject to the provisions of chapter 80 as provided
70 for in this section. The assessment under such agreement may be
71 charged or assessed to the organization of units owners but shall
72 not constitute an assessment of common expenses. Instead, the
73 allocable share of the assessment, prorated on the basis of the per-
74 centage interests of the benefited units in the common areas and
75 facilities, shall attach as a lien only to the units identified in the
76 recorded notice and benefited by the water supply system and the
77 owners of such units shall also be personally liable for their allo-
78 cable share of the assessment as provided for in this section.
79 Words defined in section 1 of said chapter 183A and used in this
80 paragraph have the same meanings as appearing in said
81 chapter 183A.

