



Informational Guideline Release

Bureau of Municipal Finance Law
Informational Guideline Release (IGR) No. 21-14
May 2021

(Supersedes IGR 92-208)

DEMOLITION CHARGES AND LIENS

[Chapter 218 of the Acts of 2016](#)
(Amending [G.L. c. 139, § 3A](#))

This Informational Guideline Release (IGR) informs local officials about the collection of various state and municipal charges for the removal or abatement of public health and safety hazards.

Topical Index Key:

Charges and Liens
Collection Procedures

Distribution:

Assessors
Collectors
Treasurers
Clerks
Accountant/Auditors
Mayors/Selectmen
Managers/Administrators/Exec. Secys.
Finance Directors
City Solicitors/Town Counsels

(Supersedes IGR 92-208)

DEMOLITION CHARGES AND LIENS

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(Amending [G.L. c. 139, § 3A](#))

SUMMARY:

There are uniform procedures for municipalities to collect expenses incurred in the removal or abatement of public health or safety nuisances and hazards. These so-called “demolition charges” are billed for expenses incurred by the city or town (or the state in certain cases) in removing or abating health or safety hazards and should be issued immediately upon completion of the work ordered. Generally, the bill would be issued by the official or board ordering the work. Alternatively, the collector may issue the bill if the city or town has accepted [G.L. c. 41 § 38A](#), which empowers the collector to collect all accounts receivable. The bill should state that the amount is now due and payable and that interest at the rate of 6% per annum accrues from the date the bill was issued. It should also state that any additional collection costs will be added to the amount due.

The bill should be mailed to the owner of the property. If the charges were incurred to abate nuisances ordered by the board of health, the bill may be issued to the owner's authorized agent or the occupant of the property as an alternative. [G.L. c. 111 § 125](#). The bill may also be issued to the owner's authorized agent if the charges were incurred to demolish unsafe structures. [G.L. c. 139, § 3A](#). If, as permitted, the bill is issued to someone other than the owner, it is recommended that the owner be mailed a copy.

Demolition charges constitute liens upon filing a statement of claim at the Registry of Deeds. These charges then may be added to the real estate tax on the property. However, to add the charges to the real estate tax, the charges must be added for the next upcoming fiscal year after the filing of the statement of claim. Then, if added, such charges will be collected as part of the tax, as is the case for most other delinquent municipal charges constituting liens. Previously, communities had to institute separate foreclosure proceedings to collect demolition charges.

These guidelines supersede Informational Guideline Release (IGR) No. 92-208 and inconsistent prior written statements.

GUIDELINES:

I. LIST OF CHARGES BY STATUTE, ACTION AND OFFICIAL(S)

<u>Statute</u>	<u>Type of Action</u>	<u>Officials</u>
G.L. c. 111 § 125	Abatement of nuisances	Board of Health
G.L. c. 111 § 127B	Cleanup of buildings unfit for human habitation	Board of Health or Commissioner of Housing Inspection (where applicable)
G.L. c. 139 § 3A	Demolition of unsafe structures	Mayor/Selectmen
G.L. c. 143 § 9	Demolition or securing of abandoned structures	Local Inspector
G.L. c. 148 § 5	Abatement of fire hazards	Fire Chief State Fire Marshal

II. ESTABLISHING DEMOLITION LIENS

To establish a valid lien for a demolition charge, a statement of claim must be filed with the Registry of Deeds for recording or registration within 90 days of the date the bill for the charge was issued. The statement must state the amount claimed for the work, without interest, and be signed by the official or board that ordered the work, noted in Section I. Attached is a "Statement of Claim" that may be used as a model.

III. DURATION OF DEMOLITION LIENS

The lien for a demolition charge takes effect upon filing the statement of claim and continues until paid or added to or committed as a tax as described in Section IV below. All costs of recording and discharging the lien are borne by the owner of the property. If timely added to the real estate tax bill, the duration of the demolition lien is coterminous with the lien for the tax to which it has been added, provided the demolition charge is added to the next fiscal year real estate tax bill.

Should the lien not be added to or committed as a tax, then it expires three years from the October first following the filing date. For example, if the statement is filed on December 1, 2014, the lien will expire on October 1, 2018. The lien may be discharged by filing with the Registry of Deeds for recording or registration a certificate from the collector that the claim, together with all interest and costs, has been paid or legally abated.

IV. ADDING DEMOLITION CHARGES TO TAX

Adding an unpaid demolition charge to the real estate tax on the property must be done for the next fiscal year after the filing of the statement of claim and only then can the charges be added and collected as part of that tax.

As such, each year, the assessors should inform the collector and other officials who bill and collect various charges, including demolition charges, of the timetable for completing the annual commitment. At that time, the collector or other officials would certify any unpaid demolition charges for which liens exist to the assessors. The assessors will then add the unpaid charge to the commitment, together with interest and any recording or collection costs, for the property. In the case of exempt property, the charge will be committed as the tax.

V. COLLECTING DEMOLITION CHARGES

If the added amount remains unpaid, it is subject to the same interest and collection charges as delinquent property taxes and the collector can use any of the remedies available for collecting taxes, including taking the property into tax title. [G.L. c. 60, § 37.](#)

In cases where the lien has expired before the demolition charges were added to the tax and a taking made, the collector may bring a civil action against the person assessed the charges. [G.L. c. 60, § 35.](#) Lawsuits for the collection of overdue municipal accounts may be brought in the name of the collector or municipality and must be commenced within 6 years from the date the account is due and payable. [G.L. c. 60, § 35.](#) [G.L. c. 260, § 2.](#) Depending on the amount, the suit may be brought in superior or district court. The small claims procedure in district court may be used where the amount of the delinquent charges is \$15,000 or less. [G.L. c. 218, § 21.](#)

Alternatively, the collector may have the treasurer withhold or "set-off" the unpaid charges from monies owed by the municipality to the person assessed. This remedy can be used at any time. [G.L. c. 60, § 93.](#)

For more information about local tax collection, see Division of Local Services [Local Tax Collection Frequently Asked Questions \(FAQs\)](#) (March 2019).

(Samples should not be used without the advice of municipal counsel)

THIS INSTRUMENT MUST BE FILED FOR RECORD OR REGISTRATION

THE COMMONWEALTH OF MASSACHUSETTS

STATEMENT OF CLAIM FOR EXPENSES TO REMOVE OR ABATE HEALTH AND SAFETY NUISANCES OR HAZARDS

The (city/town) of _____ hereby states that it has a claim in the amount of \$_____ against (name(s)) (address) for expenses incurred in the removal or abatement of certain public health and safety nuisances or hazards.

This claim is a result of (describe work) pursuant to General Laws Chapter ___§___ and constitutes a lien on the property described below.

DESCRIPTION OF PROPERTY

Statement made this date of

(NAME OF BOARD OR OFFICER)

THE COMMONWEALTH OF MASSACHUSETTS

_____, ss.

On this ___ day of _____, 20___, before me, the undersigned notary public, personally appeared _____ (name of document signer), proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document in my presence, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of (his) (her) knowledge or belief.

Signature of Notary Public/Justice of the Peace _____

Commission expires _____