

# SENATE . . . . No. 725

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## The Commonwealth of Massachusetts

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SENATE, June 24, 1941.

The committee on Bills in the Third Reading, to which was referred the House Bill relative to the expense of the removal of certain buildings or parts thereof by the health commissioner in the city of Boston (House, No. 1639), reports recommending that the same be amended by substituting therefor a new draft entitled "An Act relative to the expense of the removal of certain buildings or parts thereof by the Health Commissioner of the city of Boston" (Senate, No. 725); and that, when so amended, the same will be correctly drawn.

For the committee,

WILLIAM P. GRANT.

## The Commonwealth of Massachusetts

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In the Year One Thousand Nine Hundred and Forty-One.

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AN ACT RELATIVE TO THE EXPENSE OF THE REMOVAL OF CERTAIN BUILDINGS OR PARTS THEREOF BY THE HEALTH COMMISSIONER OF THE CITY OF BOSTON.

*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. Chapter two hundred and nineteen of  
2 the acts of eighteen hundred and ninety-seven is  
3 hereby amended by striking out section one, as  
4 amended, and inserting in place thereof the following  
5 section:—

6 *Section 1.* Whenever the health commissioner of  
7 the city of Boston shall be of opinion that any build-  
8 ing or any part thereof in said city is infected with  
9 contagious disease, or by reason of want of repair has  
10 become dangerous to life, or is unfit for use because  
11 of defects in drainage, plumbing, ventilation, or in  
12 the construction of the same, or because of the exist-  
13 ence of a nuisance on the premises which is likely to  
14 cause sickness among its occupants, said commis-  
15 sioner may issue an order requiring all persons therein  
16 to vacate or cease to use such building or part thereof  
17 stated in the order, for reasons to be stated therein  
18 as aforesaid. Said commissioner shall cause said  
19 order to be affixed conspicuously to the building  
20 or part thereof, and to be personally served on the

21 owner, lessee, agent, occupant or any person having  
22 the charge or care thereof; if the owner, lessee or  
23 agent cannot be found in the said city, or does not  
24 reside therein, or evades or resists service, then said  
25 order may be served by depositing a copy thereof in  
26 the post office of said city, postpaid and properly in-  
27 closed and addressed to such owner, lessee or agent at  
28 his last known place of business or residence. Such  
29 building or part thereof shall be vacated within ten  
30 days after said order shall have been posted and  
31 mailed as aforesaid, or within such shorter time, not  
32 less than forty-eight hours, as in said order may be  
33 specified, and said building shall be no longer used;  
34 but whenever said commissioner shall become satis-  
35 fied that the danger from said building or part thereof  
36 has ceased to exist, or that said building has been  
37 repaired so as to be habitable, he may revoke said  
38 order. Whenever in the opinion of said commissioner  
39 any building or part thereof in said city is because of  
40 age, infection with contagious disease, defects in drain-  
41 age, plumbing or ventilation, or because of the exist-  
42 ence of a nuisance on the premises which is likely to  
43 cause sickness among its occupants, or among the  
44 occupants of other property in said city, or because  
45 it makes other buildings in said vicinity unfit for  
46 human habitation or dangerous or injurious to health,  
47 or because it prevents proper measures from being car-  
48 ried into effect for remedying any nuisance injurious  
49 to health, or other sanitary evils in respect of such  
50 other buildings, so unfit for human habitation that the  
51 evils in or caused by said building cannot be remedied  
52 by repairs or in any other way except by the destruc-  
53 tion of said building or of any portion of the same,  
54 said commissioner may order the same or any part

55 thereof to be removed; and if said building is not  
56 removed in accordance with said order said commis-  
57 sioner shall remove the same.

1 SECTION 2. Said chapter two hundred and nine-  
2 teen is hereby further amended by striking out section  
3 two and inserting in place thereof the following sec-  
4 tion:—

5 *Section 2.* A claim for the expense incurred by  
6 the health commissioner of the city of Boston under  
7 section one shall constitute a debt due the city upon  
8 the completion of the work and the rendering to the  
9 owner of an account therefor, and shall be recover-  
10 able from the owner in an action of contract. Said  
11 debt, together with interest thereon at the rate of  
12 six per cent per annum from the date upon which said  
13 debt became due, shall constitute a lien upon the real  
14 estate on or relative to which the expense was in-  
15 curred, as hereinafter provided. Such lien shall take  
16 effect upon the filing, within ninety days after the  
17 debt became due, for record in the registry of deeds  
18 for Suffolk county, or, in the case of registered land,  
19 with the assistant recorder for the Suffolk registry  
20 district of the land court, of a statement of the claim,  
21 signed by said commissioner, setting forth the amount  
22 claimed without interest. Such lien shall continue  
23 for two years from the first day of October next fol-  
24 lowing the date of filing said statement. Such lien  
25 may be dissolved by filing for record in such registry  
26 of deeds or with said assistant recorder, as the case  
27 may be, a certificate from the collector of taxes that  
28 the debt for which such lien attached, together with  
29 interest and costs thereon, has been paid or legally  
30 abated. The collector shall have the same powers

31 and be subject to the same duties with respect to  
32 such claim as in the case of the annual taxes upon  
33 real estate, and the provisions of law relative to the  
34 collection of such annual taxes, the sale or taking of  
35 land for the non-payment thereof, and the redemp-  
36 tion of land so sold or taken shall apply.

37 The owner of the real estate to which a lien has  
38 attached, as provided in the preceding paragraph,  
39 within ninety days after the statement of said lien  
40 was filed in the registry of deeds or with said assistant  
41 recorder, as the case may be, may apply in writing to  
42 said commissioner for a hearing and such hearing,  
43 after due notice, shall be given by said commissioner  
44 within a reasonable time thereafter. Said commis-  
45 sioner, if he is satisfied after said hearing that the  
46 amount of the claim is more than the amount actu-  
47 ally expended to remove the building or part thereof,  
48 may reduce the amount of the claim to the amount  
49 so actually expended. If the owner of said premises  
50 is aggrieved by any decision of said commissioner  
51 under authority of this section he may, within thirty  
52 days after notice of said decision has been mailed to  
53 him, appeal to the municipal court of the city of  
54 Boston, which shall hear and finally establish the  
55 amount of the claim.

1 SECTION 3. This act shall take effect upon its  
2 passage.

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SENATE, June 24, 1941.

Passed to be engrossed.

Sent down for concurrence.

IRVING N. HAYDEN, *Clerk.*





