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Division of Local Services

***Informational Guideline
Release***

Property Tax Bureau
Informational Guideline Release No. 92-208
November 1992

DEMOLITION CHARGES AND LIENS

Chapter 133, SS. 462, 494, 499 and 500 of the Acts of 1992
(Amending G.L. Ch. 111, SS. 125 and 127B, Ch. 139, S. 3A,
Ch. 143, S. 9 and Ch. 148, S. 5)

This Informational Guideline Release informs local officials about a change in the law regarding the collection of various state and municipal charges for the removal or abatement of public health and safety hazards.

Topical Index Key:

**Betterments and Liens
Fees and Charges**

Distribution:

**Assessors
Collectors
Selectmen/Mayors
City Solicitors/Town Counsels**

The Division of Local Services is responsible for oversight of and assistance to cities and towns in achieving equitable property taxation and efficient fiscal management.

The Division regularly publishes IGRs (Informational Guideline Releases detailing legal and administrative procedures) and the Bulletin (announcements and useful information) for local officials and others interested in municipal finance.

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SUMMARY:

This legislation establishes 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 can result from an order issued by various state and local officials as follows:

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

Demolition charges, which constitute liens upon filing a statement of claim at the Registry of Deeds, will now all be added to the real estate tax on the property and collected as part of the tax if they remain unpaid, as is the case for most other delinquent municipal charges constituting liens. Previously, communities had to institute separate foreclosure proceedings to collect some of these charges.

GUIDELINES:

A. Billing Demolition Charges

A bill for the expenses incurred by the city or town (or the state in certain cases) in removing or abating the health or safety hazard should be issued immediately upon completion of the work ordered.

As a general rule, 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. Ch. 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 under G.L. Ch. 111 §125, the bill may be issued to the owner's authorized agent or the occupant of the property as an alternative. The bills may also be issued to the owner's authorized agent if the charges were incurred to demolish unsafe structures under G.L. Ch. 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.

B. Establishing Demolition Lien

To establish a valid lien for a demolition charge, a statement of claim must be filed with the Registry of Deeds for record or registration within 90 days of the date the bill 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. Attached is a "Statement of Claim" that may be used as a model.

C. Duration of Demolition Lien

The lien for demolition charges takes effect upon filing the statement of claim. It expires two years from the October first following the filing date. For example, if the statement is filed on December 1, 1992, the lien will expire on October 1, 1995. The lien may be discharged by filing with the Registry of Deeds for record or registration a certificate from the collector that the claim, together with all interest and costs, has been paid or legally abated.

All costs of recording and discharging the lien are to be borne by the owner of the property.

D. Adding Demolition Charges to Tax

If the demolition charges remain unpaid, they will be added to the real estate tax on the property and collected as part of that tax.

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

E. 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 under G.L. Ch. 60 for collecting taxes to collect it, including taking the property into tax title.

However, unlike many other liens for delinquent municipal charges, demolition liens are not coterminous with the tax lien on the property. See Section C above. The collector should be aware of the date the lien expires and make a tax taking to perfect the lien before that time.

In cases where the lien has terminated 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. Ch. 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. 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 is \$1500 or less.

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

THIS INSTRUMENT MUST BE FILED FOR RECORD OR REGISTRATION

THE COMMONWEALTH OF MASSACHUSETTS

_____ of _____
(city/town)

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

The _____ of _____ hereby states that it has a claim in
(city/town)
the amount of _____ (\$ _____) against
_____ of _____
(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 _____, 19__

(NAME OF BOARD OR OFFICER)

THE COMMONWEALTH OF MASSACHUSETTS

_____ ss. _____, 19__

Then personally appeared the above named _____

(Board/Officer) for the _____ of _____, and acknowledged the
foregoing instrument to be (their/his/her) free act and deed before me,

Notary Public/Justice of the Peace

My commission expires _____