

SENATE No. 1476

The Commonwealth of Massachusetts

PRESENTED BY:

Bruce E. Tarr, (BY REQUEST)

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to provide clarification to Massachusetts General Laws chapter 80.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Joyce A. Tomaselli</i>		
<i>Gracemarie R. Tomaselli</i>		
<i>Peter J. Durant</i>	<i>Worcester and Hampshire</i>	<i>3/17/2025</i>

SENATE No. 1476

By Mr. Tarr (by request), a petition (accompanied by bill, Senate, No. 1476) of Joyce A. Tomaselli, and Gracemarie R. Tomaselli, for legislation to provide clarification of betterments with regard to sewer projects. Municipalities and Regional Government.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1326 OF 2023-2024.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act to provide clarification to Massachusetts General Laws chapter 80.

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. Massachusetts General Laws Chapter 80 Section 1 as appearing in the 2022
2 edition is hereby amended by striking it in its entirety and replacing it with the following:-

3 Section 1. Whenever a limited and determinable area will receive a particular benefit or
4 advantage, other than the general advantage to the community, from a single public project
5 improvement made by or in accordance with the formal vote at Town Meeting or City Council or
6 order of a board of officers of the commonwealth or of a county, city, town or district, and such
7 original assessment order for construction of the sewer states that betterments are to be imposed
8 as assessments for the construction of the sewer be assessed for the improvement. The board
9 shall in the order for the construction of the sewer assessment designate as the owner of each
10 parcel the person who was liable to assessment named in the order therefor on the preceding

11 January first under the provisions of chapter fifty-nine. Starting the day after the assessment
12 order vote, the tax collector must include in all municipal lien certificates that improvements
13 have been voted, with regards to which there will probably be liens as an obligation chargeable
14 upon the land as defined in MGL c. 60 s. 23, this certificate releases liability for new buyers
15 whether or not this municipal lien certificate is recorded at the registry of deeds. Such assessing
16 board shall within six months after the completion of the sewer project improvement determine
17 the value of such benefit or advantage to the land within such area and determine final costs of
18 construction, less grants, and send a notice of final net actual assessment and assess upon each
19 parcel thereof a proportionate share of the cost of such improvement, and shall include in such
20 cost all damages awarded therefor under chapter seventy-nine; but no such assessment shall
21 exceed the amount of such adjudged benefit or advantage.

22 SECTION 2. Massachusetts General Laws Chapter 80 Section 2 as appearing in the 2022
23 edition is hereby amended by striking it in its entirety and replacing it with the following: -

24 Section 2. An assessment order for the construction of the sewer under section one which
25 states that betterments are to be assessed for the improvement shall contain a description
26 sufficiently accurate for identification of the area which it is expected will receive benefit or
27 advantage, other than the general advantage to the community, from such improvement, and
28 shall refer to a project plan of such area which includes only the contracts within the project, and
29 shall contain an estimate of assessment for the betterments that will be assessed upon each parcel
30 of land within such area; and such assessment order to construct, the project plan and estimated
31 assessment shall be recorded, within ninety days from the adoption of this assessment order, or
32 from the acceptance by a town of the laying out, relocation or alteration of a way in case such
33 acceptance is required before the establishment thereof, in the registry of deeds of every county

34 or district in which the benefited area is situated. No betterments shall be assessed for such
35 improvement unless the order for the construction of the sewer project, project plan and estimate
36 are recorded at the Registry of Deeds to create a lien. The assessment lien for the construction of
37 a sewer relates back from the time of the formal vote of the assessment order for construction of
38 the sewer as herein provided, nor upon any parcel of land not within such area, nor for a greater
39 amount than such estimate or actual final net construction costs. As to third persons without
40 actual knowledge of the installation of the sewer improvement, such as subsequent mortgagees
41 and purchasers, the assessment is only valid if the board complies with recording the assessment
42 order of construction at the registry of deeds to create a lien.

43 SECTION 3. Massachusetts General Laws Chapter 80 Section 4 as appearing in the 2022
44 edition is hereby amended by striking it in its entirety and replacing it with the following: -

45 Section 4. Within a reasonable time after making the final net actual assessment the board
46 shall certify to the assessors the list of final actual assessments upon land in each town who shall
47 forthwith commit the final net project cost less grants received actual assessment such
48 assessments with their warrant to the collector of taxes thereof, and he shall forthwith send notice
49 of final committed assessment in accordance, except as to the date of notice, with section three of
50 chapter sixty, to the person designated under section one as the owner of each parcel named in
51 the assessment order of construction assessed, and any demand for the payment of such final
52 assessment shall be made upon such person. The notice of final committed actual assessment
53 must be sent by certified mail to the liable owner named in the assessment order for the
54 construction of the sewer, parcel address and ID, amount owed, the date of the assessment order
55 vote to construct the sewer, the vote to construct the sewer with the area within the project plan
56 and contracts included in the project. The date of the bill, payment due date and options, interest

57 rate and abatement rights. The notice of final committed actual assessment shall also be sent by
58 certified mail to the current property owner of record, if different from assessed liable owner,
59 with an explanation of the assessment purpose (project), and provided with a form to request an
60 apportionment from the assessor and also notified of abatement rights. Except as otherwise
61 herein provided, the collector shall have the same powers and be subject to the same duties with
62 respect to such final assessments as in the case of the annual taxes upon real estate, and the law
63 in regard to the collection of the annual taxes, to the sale of land for the non-payment thereof and
64 to redemption therefrom shall apply to final assessments made under this chapter, so far as the
65 same are applicable; but the owner of land shall not be personally liable for the assessment
66 thereon, because a special assessment or betterment must be secured by a lien on the property
67 benefited. To enforce collection, the Assessing Board must establish a valid lien at the Registry
68 of Deeds of the assessment order to construct the sewer Every collector of taxes receiving a list
69 of assessed owners named in the assessment order of construction and warrant from the assessors
70 shall collect the final assessment therein set forth, and at such times as the assessors shall direct,
71 or in the case of assessments relating to state funded projects, as the collector of taxes and the
72 board determine shall pay over to the treasurer of the body politic on behalf of which the
73 assessment was made the amounts collected by him.

74 SECTION 4. Massachusetts General Laws Chapter 80 Section 5 as appearing in the 2022
75 edition is hereby amended by striking it in its entirety and replacing it with the following: -

76 Section 5. The liable owner of any real estate upon which betterments have been
77 assessed whose name appears in the order of construction or the current owner not named
78 in the order of construction and with an assessment order lien recorded at the registry of deeds,

79 may, within six months after notice bill of such final assessment has been sent out by the
80 collector, file with the board a petition for an abatement thereof, and the board shall grant such
81 abatement as may be necessary to make such assessment conform to section one. Such petition
82 may be filed with the clerk or secretary of the board, or delivered by mail or otherwise at their
83 office. The board shall within ten days after their decision upon the petition give written notice
84 thereof to the petitioner. If a final actual assessment is abated by the board the assessment so
85 determined shall stand as the final actual assessment upon the land, and if it has not been paid
86 shall be collected in the same manner as the original assessment. If the original assessment has
87 been paid, the person by whom it was paid shall be reimbursed by the body politic on behalf of
88 which it was assessed to the amount of the abatement allowed, with interest at the rate of six per
89 cent per annum from the time of payment.

90 SECTION 5. Massachusetts General Laws Chapter 80 Section 12 as appearing in the
91 2022 edition is hereby amended by striking it in its entirety and replacing it with the following: -

92 Section 12. Betterment Assessments made under this chapter shall constitute a lien upon
93 the land assessed. The lien shall take effect upon the recording at the Registry of Deeds the
94 original order of assessment to construct the sewer stating that betterments or special
95 assessments are to be assessed for the improvement. A special assessment or betterment is
96 secured by a lien on the property benefited. To enforce collection, the assessing board (city/town
97 council, board of selectmen, water/sewer/road commissioners) must establish a valid lien.

98 Notwithstanding any other provision of this section or chapter eighty-three, if a county,
99 city, town, or district elects to send notice of the net committed assessment to the owner of the
100 land assessed indicating the amount of the assessment for the betterment, and said owner pays

101 the amount due, no lien shall be recorded. The assessors shall indicate on the next tax bill that the
102 amount of the betterment assessment has been paid and no further notation or demand shall be
103 made on land so assessed. Except as otherwise provided, such lien shall terminate at the
104 expiration of two years from October first in the year in which the assessment is first placed on
105 the annual tax bill under section thirteen or, if an assessment has been apportioned, from October
106 first in the year in which the last portion is so placed upon the annual tax bill, whichever is later,
107 if in the meantime in either case the estate has been alienated and the instrument alienating the
108 same has been recorded. If there is no recorded alienation within such period, the lien shall
109 continue until there is a recorded alienation. If the validity of an assessment made under this
110 chapter is called in question in any legal proceeding to which the board which made the
111 assessment or the body politic for the benefit of which it was made is a party, instituted prior to
112 the expiration of the lien therefor, the lien shall continue until one year after the validity of the
113 assessment is finally determined, even though an alienation be recorded in the meantime. If at
114 any time while a lien established by this section is in force, a sale or taking cannot in the opinion
115 of the collector be legally made because of any federal or state law or because of any injunction
116 or other action of, or proceeding in, any federal or state court or because of the action of any
117 administrative body, the lien shall, if the statement provided for in section thirty-seven A of
118 chapter sixty is filed, continue as provided in said section thirty-seven A, subject, however, to
119 any lawful action under any paramount authority conferred by the constitution or laws of the
120 United States or the constitution of the commonwealth. If the time for payment of an assessment
121 is extended under section thirteen A or under any general or special law, the lien shall, if the
122 statement provided for in section thirty-seven A of chapter sixty is filed, continue as provided in
123 said section thirty-seven A. A lien under this section may be dissolved by filing for record in the

124 registry of deeds of the county or district where the land subject to the lien lies a certificate, in a
125 form approved by the commissioner of revenue, from the collector of taxes that the assessment,
126 constituting the lien, together with any interest and costs thereon, has been paid or legally abated.
127 The collector of taxes shall charge four dollars for each certificate so issued, and the money so
128 received shall be paid into the town treasury.