



BOSTON CITY COUNCIL

Committee on Government Operations
Ricardo Arroyo, Chair

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REPORT OF COMMITTEE CHAIR

December 06, 2023

Dear Councilors,

The Committee on Government Operations was referred *Docket #0410, Petition for a Special Law re: An Act increasing the maximum amount of fines which may be imposed for violations of ordinances and authorizing the City of Boston to place municipal charge liens on certain properties in the City of Boston for nonpayment of any local charges, fees or fines*, on February 15, 2023. This matter was sponsored by Councilors Liz Breadon and Ruthzee Louijeune.

Summary of Legislation as Filed:

The proposed Home Rule Petition (HRP) seeks to accomplish the following: raise the maximum fine for violations of local ordinances from \$300 to \$2,000; implement regular adjustments to that maximum fine relevant to inflation; and finally, expand the City's existing authority under **Massachusetts General Laws Chapter 40U (M.G.L. c. 40U)** to place liens on properties.

SECTION 1 seeks to amend the **1854 Boston City Charter** to raise the maximum fine for violations of local ordinances for the first time in 35 years. The Boston City Charter empowers the City to impose penalties for violations of local ordinances up to a maximum of \$300. This number has been amended three (3) times since 1854, changing the maximum fine from \$50 to \$200 and then \$200 to \$300.

SECTION 2 seeks to tie fines to inflation, meaning that in the future, rather than filing an HRP to amend the City Charter, the maximum fine would be increased, maintained, or even decreased relevant to inflation at the time of review. Reviews would begin on January 1, 2025, and take place on January 1st every five years thereafter. The maximum fine amount would be determined based on the annual percentage change in the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for All Urban Consumers (CPI-U) for the Boston-Cambridge-Newton, Mass.-N.H. Core Based Statistical Area, all items, or its successor index.

SECTION 3 seeks to expand the City's existing power to issue liens on properties in the City of Boston by way of the **Municipal Modernization Act (2016)**. Currently, pursuant to **M.G.L. c.**

40U, a local option statute, the City of Boston has the authority to place liens on properties within their jurisdiction for "unpaid local charges or fees" imposed for violations of municipal housing code, sanitary code, and municipal snow and ice removal requirements. The **Municipal Modernization Act** creates the opportunity for municipalities to expand that authority to impose liens on properties for "unpaid regulatory fines" as well.

Information Gathered:

The Committee held a public hearing on October 23, 2023, and a working session on December 04, 2023. Testifying on behalf of the Administration included Commissioner Nick Ariniello, Commissioner of Assessing; Kelly Mackey, Asst Commissioner of Administration and Finance, Inspectional Services Department (ISD); Dennis Roache, Superintendent of Waste Reduction, Public Works Department (PWD); and John Blackmore, Code Enforcement, Public Works Department.

During the public hearing and working session, Councilors and the Administration discussed the effectiveness of the HRP and the impact it could have on vulnerable property owners as well as property owners with repeat violations. The Administration expressed support for raising the maximum fine, stating that it could assist with enforcement with respect to repeat offenders. The Administration explained that issuing daily violations sometimes isn't enough to support enforcement because when it comes to larger management companies, the fines are just considered a cost of doing business. The Administration highlighted the seriousness with which New York City (NYC) handles fines. It was stated that in the case of illegal dumping, NYC has instituted a minimum fine of \$4,000 for all offenders. It was stated that the increase in fines had a positive impact with respect to prevention and enforcement.

With respect to property owners in more vulnerable positions, the Administration explained that there is an appeals process and that there are programs offered through departments like Age Strong that will help relieve financial burdens and correct the violation. Councilors also suggested improving language access to ensure effective notice for all property owners.

Councilors and the Administration also discussed current policies and procedures with respect to imposing fines for violations of local law, imposing violations as liens on taxes, barriers for enforcement, and strategies to improve enforcement. The Administration provided an overview of the administrative procedures relevant to issuing fines and imposing liens. It was explained that unless the property owner lives out of state when a violation is issued, it is left at the property. It was stated that if left unpaid, the property owner will receive a mailed notice of the violation at a later date with the opportunity to appeal. It was further explained that after fines have been established and the window to appeal has passed, unpaid fines are added to the property owner's tax bill. Finally, the Administration explained that if left unpaid at the end of the fiscal year, the City will then mail a demand notice and, if unanswered, move forward with imposing a lien. However, the Administration clarified that they have not exercised their authority to impose liens since 2016 due to issues with technology and systems failing to store and populate accurate data on property owners. It was explained that M.G.L. c. 40U requires

specific steps be taken in order to issue a lien, such as notice, service, and the opportunity to appeal the violation. Therefore, if the code enforcement officer issuing a violation does not have the correct information on hand and the wrong property owner receives notice, by the time a lien could be issued, even if the correct property information is then available, the City cannot issue a lien because the correct property owner was not notified of the violation with the time to pay, fix and/or appeal. It was also explained that this technology glitch has led to the City imposing liens on the incorrect property owner. The Administration confirmed that they have been working on fixing this issue with the Department of Innovation and Technology (DoIT) but have not yet been successful in finding a solution.

In closing remarks, Councilors highlighted the opportunities the **Municipal Modernization Act** could provide for Boston with respect to issuing liens and stressed the need for further conversations with DoIT, ISD, PWD, and the Assessing Department on how to fix the technological failures.

Summary of Recommended Amendments:

Based upon discussions between Councilors and the Administration, the docket is amended as follows:

SECTION 1: No change.

SECTION 3: The Home Rule Petition as amended strikes this section in its entirety.

SECTION 3:

~~Chapter 222 of the acts of 1949 is hereby amended by striking out section 5 and inserting in place thereof the following two sections:—~~

~~Section 5. The City of Boston may impose a lien on real property located within the city for any local charge, fee or fine that has not been paid by the due date; provided, that prior to any lien being imposed for any local charge, fee or fine, an ordinance shall be established by a vote of the city council specifying each type of charge, fee or fine to be collected. The lien shall be known as a "municipal charges lien." For purposes of this act, "local charge", "municipal charge," "fee" or "fine" shall mean any charge, fee or fine imposed by the city by ordinance, rule or regulation, statute or state regulation, or imposed by a court of the commonwealth payable to the city as a result of any action initiated by city officials to enforce city ordinances, rules, regulations, statutes, or state regulations.~~

~~A municipal charges lien authorized under this section shall take effect upon the recording of a list of unpaid municipal charges, fees or fines by parcel of land and by the name of the property owner assessed for the charge, fee or fine in the registry of deeds of Suffolk County.~~

~~If a charge, fee or fine which is secured by a municipal charges lien remains unpaid when the assessors are preparing a real estate tax list and warrant to be committed pursuant to section 53 of chapter 59 of the General Laws, then the board or officer in charge of the collection of the municipal charge, fee or fine shall certify such charge or fee to the assessors, who shall add the~~

~~charge, fee or fine to the tax on the property to which it relates and commit it with the warrant to the collector of taxes as part of the tax.~~

~~If the property to which such charge, fee or fine relates is tax exempt, the charge, fee or fine shall be committed as the tax. A lien under this section may be discharged by filing in the registry of deeds of Suffolk County a certificate from the tax collector that all municipal charges, fees or fines constituting the lien, together with any interest and costs thereon, have been paid or legally abated. All costs of recording or discharging a lien under this act shall be borne by the owner of the property.~~

~~Section 6. This act shall take effect upon its passage.~~

SECTION 4: No change. This section is the new SECTION 3 in the amended version.

SECTION 5: No change. This section is the new SECTION 4 in the amended version.

Recommended Action:

The Chair of the Committee on Government Operations, to which the following was referred:

Docket #0410, Petition for a Special Law re: An Act increasing the maximum amount of fines which may be imposed for violations of ordinances and authorizing the City of Boston to place municipal charge liens on certain properties in the City of Boston for nonpayment of any local charges, fees or fines,

submits a report recommending that this docket **ought to pass in a new draft.**

For the Chair:

Ricardo Arroyo, Chair



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