HOUSE DOCKET, NO. 1086 FILED ON: 1/19/2011

HOUSE . . . . . No. 1447

The Commonwealth of Massachusetts

PRESENTED BY:

Stephen Kulik

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 passage of the accompanying:

An Act relative to the effective enforcement of municipal ordinances and bylaws .

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Stephen Kulik	*1st Franklin*
John W. Scibak	*2nd Hampshire*
William Smitty Pignatelli	*4th Berkshire*
Jennifer E. Benson	*37th Middlesex*
Carolyn C. Dykema	*8th Middlesex*
Denise Provost	*27th Middlesex*

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HOUSE . . . . . No. 1447

By Mr. Kulik of Worthington, a petition (accompanied by bill, House, No. 1447) of Stephen Kulik and others relative to the effective enforcement of municipal ordinances and bylaws. Municipalities and Regional Government.

The Commonwealth of Massachusetts

An Act relative to the effective enforcement of municipal ordinances and bylaws .

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. The first paragraph of section 21 of chapter 40 of the General Laws, as appearing in the 2008 official edition, is hereby amended by striking out the words, “three hundred dollars” in line 5-6, and inserting in place thereof the words “one thousand dollars”

SECTION 2. The fifth paragraph of section 21D of chapter 40 of the General Laws, as appearing in the 2008 official edition, is hereby amended by striking out the words, “three hundred dollars” in lines 44-45 and inserting in place thereof the words “one thousand dollars”

SECTION 3. Section 21D of chapter 40 of the General Laws is hereby amended by inserting after the end of said section the following new tenth paragraph: --

Notwithstanding the foregoing provisions and any general or special law to the contrary, in any suit in equity brought in the superior court or the land court by any city or town, or any municipal agency, officer, board or commission having enforcement powers on behalf of such a city or town, to enforce the provisions of any lawfully enacted ordinance or bylaw, or any rule, regulation or order described in this section, the court, upon a finding that such violation occurred, may assess a civil penalty not to exceed one thousand dollars for each violation thereof. Civil penalties assessed under this paragraph shall be in addition to any equitable relief ordered by the court, and shall be paid to such city or town for such use as the city or town may direct. In considering any penalty to be assessed under this paragraph, the court shall consider (a) whether the violation was willful or negligent, (b) any harm to the public health, safety or environment resulting from the violation, (c) any economic benefit gained by the defendant as a result of the violation, (d) the cost to the city or town resulting from the violation, including its enforcement costs and reasonable attorneys fees, (e) any history of noncompliance by the defendant, and (f) whether the defendant made good faith efforts to cure or cease the violation of such ordinance or bylaw after the first notice thereof by such city or town.

24 SECTION 4. The second paragraph of section 7 of chapter 40A of the General Laws, as
25 appearing in the 2008 official edition, is hereby amended by striking out the words “three
26 hundred dollars” in lines 16-17, and inserting in place thereof the words “one thousand dollars”

27 SECTION 5. The third paragraph of section 7 of chapter 40A of the General Laws, as
28 appearing the 2008 official edition, is hereby amended by inserting after the word “thereof” in
29 line 49 the phrase “and, upon determination that such violations have occurred, may assess civil
30 penalties therefore in accordance with the provisions of the tenth paragraph of section 21D of
31 chapter 40 of the General Laws.