

SENATE No. 1227

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to property tax deferments for senior citizens in the town of Winchendon..

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. (a) The town of Winchendon may defer payment of real estate taxes on real
2 property, to an amount determined as hereinafter provided, of: a person 70 years of age or over
3 and occupied by him as his domicile; of a person who owns the same jointly with his spouse,
4 either of whom is 70 years of age or over, and occupied as their domicile; or of a person 70 years
5 of age or over who owns the same jointly or as a tenant in common with a person not his spouse
6 and occupied by him as his domicile. A deferment shall only be made if such person has been
7 domiciled in the commonwealth for the preceding 10 years and:

8 (1) has so owned and occupied as his domicile such real property or other real property in
9 the commonwealth for 5 years; or

10 (2) is a surviving spouse who inherits such real property and has occupied such real
11 property or other real property in the commonwealth as his domicile for 5 years and who
12 otherwise qualifies under this act; and provided further that such person, or such person and his
13 spouse, if married, had, during the preceding year, gross receipts from all sources not in excess
14 of \$20,000. The town of Winchendon may also, by vote of the board of selectmen, adopt a

15 higher maximum qualifying gross receipts amount for the purposes of this act. Such maximum
16 qualifying gross receipts amount shall not exceed \$40,000.

17 (b) In determining the total period of ownership of an applicant for exemption under this
18 act, the time during which the same property was owned by a husband or wife individually shall
19 be added to the period during which such property was owned by said husband and wife jointly.
20 In computing the gross receipts of such an applicant or of such an applicant and his spouse, if
21 married, ordinary business expenses and losses may be deducted but not personal and family
22 expenses. For the purposes of this act, the date of determination as to age, ownership or other
23 qualifying factors shall be July first of each year, unless another meaning is clearly apparent
24 from the context.

25 (c) Any such person may, on or before December fifteenth of each year to which the tax
26 relates or within 3 months after the date on which the bill or notice is first sent, whichever is
27 later, apply to the board of assessors for a deferment of all or part of such real property from
28 taxation during such year; provided, however, that in the case of real estate owned by a person
29 jointly or as a tenant in common with a person not his spouse, the deferment shall not exceed that
30 proportion of total valuation which the amount of his interest in such property bears to the whole
31 tax due. The board of assessors shall grant such deferment if the owner or owners of such real
32 property have entered into a tax deferral and recovery agreement with the board of assessors on
33 behalf of the town. The agreement shall provide that:

34 (1) no sale or transfer of such real property may be consummated unless the deferred
35 taxes which would otherwise have been assessed and paid on such portion of the real property as
36 is so deferred have been paid, with interest at the rate of the prime interest rate minus 1 per cent

37 per annum or such lesser rate as may be determined by the board of selectmen of the town,
38 subject to its charter, not later than the beginning of the fiscal year to which the tax relates;

39 (2) the total amount of such taxes due, plus interest, for the current and prior years does
40 not exceed 50 per cent of the owner's proportional share of the full and fair cash value of such
41 real property;

42 (3) upon the demise of the owner of such real property, the heirs-at-law, assignees or
43 devisees shall have first priority to the real property by paying, in full, the total taxes which
44 would otherwise have been due, plus interest. If such heir-at-law, assignee or devisee is a
45 surviving spouse who enters into a tax deferral and recovery agreement under this act, payment
46 of the taxes and interest due shall not be required during the life of such surviving spouse. Any
47 additional taxes deferred, plus interest, on said real property under a tax deferral and recovery
48 agreement signed by a surviving spouse shall be added to the taxes and interest which would
49 otherwise have been due, and the payment of which has been postponed during the life of such
50 surviving spouse, in determining the 50 per cent requirement of clause (2);

51 (4) If the taxes due, plus interest, are not paid by the heir-at-law, assignee or devisee or if
52 payment is not postponed during the life of a surviving spouse, such taxes and interest shall be
53 recovered from the estate of the owner; and

54 (5) Any joint owner or mortgagee holding a mortgage on such property has given prior
55 written approval for such agreement, which written approval shall be made a part of such
56 agreement.

57 (d) In the case of each tax deferral and recovery agreement entered into between the
58 board of assessors and the owner or owners of such real property, the board of assessors shall

59 forthwith cause to be recorded in the Worcester county registry of deeds a statement of its action,
60 which shall constitute a lien upon the land covered by such agreement for such taxes as have
61 been assessed under this act, plus interest as hereinafter provided. A lien filed pursuant to this act
62 shall be subsequent to any liens securing a reverse mortgage, excepting shared appreciation
63 instruments. The statement shall name the property owner or owners and shall include a
64 description of the land adequate for identification. Unless such a statement is recorded, the lien
65 shall not be effective with respect to a bona fide purchaser or other transferee without actual
66 knowledge of such lien. The filing fee for such statement shall be paid by the city or town and
67 shall be added to and become a part of the taxes due.

68 (e) In addition to the remedies provided by this act, the recorded statement of the
69 assessors provided for in this act shall have the same force and effect as a valid taking for
70 nonpayment of taxes under section 53 of chapter 60 of the General Laws, except that: (1) interest
71 shall accrue at the rate provided in this act until the conveyance of the property or the death of
72 the person whose taxes have been deferred, after which time interest shall accrue at the rate
73 provided in section 62 of said chapter 60; (2) no assignment of the municipality's interest under
74 this act shall be made pursuant to section 52 of said chapter 60; (3) no petition under section 65
75 of said chapter 60 to foreclose the lien shall be filed before the expiration of 6 months from the
76 conveyance of the property or the death of the person whose taxes have been deferred.