

# HOUSE . . . . . No. 2582

---

## The Commonwealth of Massachusetts

---

PRESENTED BY:

***Sean Garballey***

---

*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 relative to tax exempt property.

---

PETITION OF:

| NAME:                 | DISTRICT/ADDRESS:     | DATE ADDED:      |
|-----------------------|-----------------------|------------------|
| <i>Sean Garballey</i> | <i>23rd Middlesex</i> | <i>1/17/2013</i> |
| <i>Geoff Diehl</i>    | <i>7th Plymouth</i>   |                  |

# HOUSE . . . . . No. 2582

---

By Mr. Garballey of Arlington, a petition (accompanied by bill, House, No. 2582) of Sean Garballey and Geoff Diehl relative to the sale of tax exempt property sold by religious and charitable organizations. Revenue.

---

## The Commonwealth of Massachusetts

\_\_\_\_\_  
In the Year Two Thousand Thirteen  
\_\_\_\_\_

An Act relative to tax exempt property.

*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. Section 5 of chapter 59 of the General Laws, as amended by sections 7A  
2 and 8 of chapter 108 of the acts of 2012, is hereby amended by inserting after the first paragraph,  
3 the following paragraphs:-

4           Real property exempt from taxation under clause Third and Eleventh of this section shall  
5 not be sold for, or converted to, residential, industrial or commercial use while so exempted  
6 unless the city or town in which the land is located has been notified of the intent to sell for, or to  
7 convert to, that other use.

8           Any notice of intent to sell for other use shall be accompanied by a statement of intent to  
9 sell, a statement of proposed use of the land, the location and acreage of land as shown on a map  
10 drawn at the scale of the assessors map in the city or town in which the land is situated, and the  
11 name, address and telephone number of the property owner.

12           Any notice of intent to sell for other use shall be accompanied by a certified copy of an  
13 executed purchase and sale agreement specifying the purchase price and all terms and conditions  
14 of the proposed sale, which is limited to only the real property exempted under clause Third and  
15 Eleventh of this section, and which shall be a bona fide offer. A bona fide offer to purchase shall  
16 mean a good faith offer, not dependent upon potential changes to current zoning or conditions or  
17 contingencies relating to the potential for, or the potential extent of, subdivision of the property  
18 for residential use or the potential for, or the potential extent of development of the property for  
19 industrial or commercial use, made by a party unaffiliated with the property owner for a fixed  
20 consideration payable upon delivery of the deed. Any notice of intent to sell for other use shall

21 also be accompanied by any additional agreements or a statement of any additional consideration  
22 for any contiguous real property under the same ownership, and not exempted under clause Third  
23 and Eleventh of this section, but sold or to be sold contemporaneously with the proposed sale.

24 Any notice of intent to convert to other use shall be accompanied by a statement of intent  
25 to convert, a statement of proposed use of the real property, the location and acreage of the  
26 property as shown on a map drawn at the scale of the assessors map in the city or town in which  
27 the property is situated, the name, address and telephone number of the property owner and the  
28 owner's attorney, if any.

29 The notice of intent to sell or convert shall be sent by the property owner by certified  
30 mail or hand delivered to the mayor and city council of a city, or board of selectmen of a town,  
31 and in the case of either a city or a town, to its board of assessors and its planning board, if any.

32 A notarized affidavit that the property owner has mailed or delivered a notice of intent to  
33 sell or convert shall be conclusive evidence that the owner has mailed the notice in the manner  
34 and at the time specified. Each affidavit shall have attached to it a copy of the notice of intent to  
35 which it relates.

36 The notice of intent to sell or convert shall be considered to have been duly mailed if  
37 addressed to the mayor and city council or board of selectmen in care of the city or town clerk;  
38 and to the planning board and assessors if addressed to them directly.

39 If the notice of intent to sell or convert does not contain all of the material described  
40 above, then the town or city, within 30 days after receipt, shall notify the owner in writing that  
41 notice is insufficient and does not comply.

42 For a period of 120 days after the day following the latest date of deposit in the United  
43 States mail of any notice which complies with this section, the city or town shall have, in the  
44 case of intended sale, a first refusal option to meet a bona fide offer to purchase the property.

45 In the case of intended or determined conversion not involving sale, the municipality  
46 shall have an option to purchase the property at full and fair market value to be determined by an  
47 impartial appraisal performed by a certified appraiser hired at the expense of the municipality or  
48 its assignee, the original appraisal to be completed and delivered to the property owner within 30  
49 days after the notice of conversion to the municipality. In the event that the property owner is  
50 dissatisfied with the original appraisal, the owner may, at the

51 owner's expense, contract for a second appraisal, to be completed within 60 days after the  
52 delivery of the notice to convert. If, after completion of the second appraisal, the parties cannot  
53 agree on a consideration, the parties will contract with a mutually acceptable appraiser for a third  
54 appraisal whose cost will be borne equally by both parties. The third appraisal shall be delivered  
55 to both parties within 90 days after the notice of conversion to the municipality and shall be the

56 final determination of consideration. Upon agreement of a consideration, the city or town shall  
57 then have 120 days to exercise its option. During the appraisal process, the owner may revoke  
58 the intent to convert at any time and with no recourse to either party.

59         The option may be exercised only after a public hearing followed by written notice  
60 signed by the mayor or board of selectmen, mailed to the property owner by certified mail at the  
61 address that is specified in the notice of intent. Notice of public hearing shall be given in  
62 accordance with section XXXXX of chapter 30A.

63         The notice of exercise shall also be recorded at the registry of deeds and shall contain the  
64 name of the record owner of the land and description of the premises adequate for identification  
65 of them.

66         The notice to the property owner of the city or town's election to exercise its option shall  
67 be accompanied by a proposed purchase and sale contract or other agreement between the city or  
68 town and the owner which, if executed, shall be fulfilled within a period of not more than 90  
69 days after the date the contract or agreement, endorsed by the owner, is returned by certified mail  
70 to the mayor or board of selectmen, or upon expiration of any extended period that the owner has  
71 agreed to in writing, whichever is later.

72         At the public hearing or a further public hearing, the city or town may assign its option to  
73 a nonprofit conservation organization or to the commonwealth or any of its political subdivisions  
74 under the terms and conditions that the mayor or board of selectmen may consider appropriate.  
75 Notice of public hearing shall be given in accordance with section 23B of chapter 39.

76         If the first refusal option has been assigned to a nonprofit conservation organization or to  
77 the commonwealth or any of its political subdivisions, the mayor or board of selectmen shall  
78 provide written notice of assignment to the property owner. The notice of assignment shall state  
79 the name and address of the organization or agency of the commonwealth which will exercise  
80 the option in addition to the terms and conditions of the assignment. The notice of assignment  
81 shall be recorded with the registry of deeds.

82         Failure to record either the notice of exercise or the notice of assignment within the 120  
83 day period shall be conclusive evidence that the city or town has not exercised its option.

84         If the option has been assigned to a nonprofit conservation organization or to the  
85 commonwealth or any of its political subdivisions, the option may be exercised by the assignee  
86 only by written notice to the property owner signed by the assignee, mailed to the owner by  
87 certified mail at the address that is specified in the notice of intent. The notice of exercise shall  
88 also be recorded with the registry of deeds and shall contain the name of the record owner of the  
89 land and description of the premises adequate for identification of them.

90 The notice of exercise to the property owner shall be accompanied by a proposed  
91 purchase and sale contract or other agreement between the assignee and owner which, if  
92 executed, shall be fulfilled within a period of not more than 90 days, or upon expiration of any  
93 extended period the owner has agreed to in writing, from the date the contract or agreement,  
94 endorsed by the owner, is returned by certified mail to the assignee.

95 During the 120 day period, the city or town or its assignees, shall have the right, at  
96 reasonable times and upon reasonable notice, to enter upon the land for the purpose of surveying  
97 and inspecting the land, including, but not limited to, soil testing for purposes of Title V and the  
98 taking of water samples.

99 The city or town or its assignee shall have all rights assigned to the buyer in the purchase  
100 and sale agreement contained in the notice of intent.

101 If the city or town elects not to exercise the option, and not to assign its right to exercise  
102 the option, the city or town shall send written notice of nonexercise, signed by the mayor or  
103 board of selectmen, to the property owner by certified mail at the address that is specified in the  
104 notice of intent. The notice of nonexercise shall contain the name of the owner of record of the  
105 land and description of the premises adequate for identification of them and shall be recorded  
106 with the registry of deeds.

107 No sale or conversion of the land shall be consummated until the option period has  
108 expired or the notice of nonexercise has been recorded with the registry of deeds, and no sale of  
109 the land shall be consummated if the terms of the sale differ in any material way from the terms  
110 of the purchase and sale agreement which accompanied the bona fide offer to purchase as  
111 described in the notice of intent to sell except as provided in this section.

112 This section shall not apply to a mortgage foreclosure sale, but the holder of a mortgage  
113 shall, at least 90 days before a foreclosure sale, send written notice of the time and place of the  
114 sale to the parties in the manner described in this section for notice of intent to sell or convert,  
115 and the giving of notice may be established by an affidavit as described above.