

SENATE No. 2151

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

SENATE, Monday, February 29, 2016

The committee on Revenue to whom was referred the petitions (accompanied by bill, Senate, No. 1539) of Michael J. Rodrigues, Stephen Kulik, Keiko M. Orrall, Steven S. Howitt and other members of the General Court for legislation to clarify deadlines for submission of applications for land under Chapter 61a; (accompanied by bill, Senate, No. 1540) of Michael J. Rodrigues, Stephen Kulik, Steven S. Howitt and Jennifer E. Benson for legislation to clarify the allowance of land under chapter 61b; (accompanied by bill, House, No. 2491) of Carolyn C. Dykema and others relative to the timely filing of applications in municipalities with programs of revaluation; and (accompanied by bill, House, No. 2643) of Shaunna L. O'Connell and David F. DeCoste relative to property taxes on recreational, horticultural and agricultural land,- reports the accompanying bill (Senate, No. 2151).

For the committee,
Michael J. Rodrigues

SENATE No. 2151

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act clarifying deadlines for submission of applications for land under Chapter 61a.

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 2 of chapter 61 of the General Laws, as appearing in the 2014
2 Official Edition, is hereby amended by striking out, in line 40, the word “October”, and inserting
3 in place thereof the following:- December.

4 SECTION 2. Said section 2 of said chapter 61, as so appearing, is hereby amended by
5 striking out the last paragraph and inserting in place thereof the following paragraph:-

6 When in judgment of the assessors, land which is classified as forest land or which is the
7 subject of an application for such classification is not being managed under a program, or is
8 being used for purposes incompatible with forest production, or does not otherwise qualify under
9 this chapter, the assessors may, on or before February first in any year file an appeal in writing
10 mailed by certified mail to the state forester requesting a denial of application or, in the case of
11 classified land, requesting removal of the land from such classification. Such appeal shall state
12 the reasons for such request. A copy of the appeal shall be mailed by the assessors by certified
13 mail to the owner of the land. The state forester may initiate, on or before December first of any
14 year, a proceeding to remove land from classification, sending notice of his action by certified

15 mail to the assessors and the owner of such land. The state forester may deny the owner's
16 application, may withdraw all or part of the land from classification, or may grant the
17 application, imposing such terms and conditions as he deems reasonable to carry out the purpose
18 of this chapter, and shall notify the assessors and the owner of his decision no later than March
19 first of the following year. If the owner or the assessors are aggrieved by his decision they may,
20 on or before June fifteenth, give notice to the state forester of a claim of appeal. The state
21 forester shall convene within 30 days after receipt of said notice of appeal, a panel in the region
22 in which the land is located. Said panel shall consist of three members, one of whom shall be
23 named by the state forester, one of whom shall be named by the assessors, and one of whom
24 shall be named by the state forester and the assessors. Said panel shall give notice of the date and
25 place of the hearing in writing to the parties seven days at least before the date of said hearing.
26 The panel shall furnish the parties, in writing, a notice of its decision within ten days after the
27 adjournment of said hearing. Decisions of the panel shall be by majority vote of its members. If
28 the owner or the assessors are aggrieved by such decision, they may, within forty-five days from
29 receipt of the decision, petition either the superior court in the county in which the land is located
30 for a review of such decision under the provisions of chapter thirty A or the appellate tax board
31 under the provisions of chapter fifty-eight A, and said land shall not be classified or withdrawn
32 from classification until the final determination of such petition. The state forester may adopt
33 such regulations as he deems necessary to carry out the provisions of this chapter.

34 SECTION 3. Section 6 of chapter 61A of the General Laws, as so appearing, is hereby
35 amended by striking out said section and inserting in place thereof the following new section:-

36 Section 6. Eligibility of land for valuation, assessment and taxation pursuant to section
37 four shall be determined separately for each tax year. Application therefor shall be submitted to

38 the board of assessors of each city or town in which such land is situated not later than December
39 first preceding each tax year for which such valuation, assessment and taxation are being sought
40 and may not thereafter be withdrawn. Application shall be made on a form prescribed by the
41 commissioner of revenue and provided for the use of claimants by said board of assessors. Such
42 form shall provide for the reporting of information pertinent to the provisions of this chapter and
43 of Article XCIX of the Articles of Amendment to the Constitution of the Commonwealth and for
44 certification by the applicant that he will immediately, but no later than December first next
45 following, notify the board of assessors in writing of any subsequently developing circumstance
46 within his control or knowledge which may cause a change in use of the land covered by such
47 form. Any application submitted under this section and covering leased land shall be
48 accompanied by a written statement signed by any lessee of his intent to use such land for the
49 purposes set forth in said application. A certification by a landowner that the information set
50 forth in his application is true may be prescribed by said commissioner to be in lieu of a sworn
51 statement to that effect. An application so certified shall be considered as if made under oath and
52 subject to the same penalties as provided by law for perjury. Upon allowance of any such
53 application under section 9, classification as land actively devoted to agricultural, horticultural or
54 agricultural and horticultural shall take effect on January first preceding the beginning of the tax
55 year to which the application relates and taxation under this chapter shall commence with that
56 tax year.

57 SECTION 4. Section 7 of said chapter 61A of the General Laws, as so appearing, is
58 hereby amended by striking out, in line 3, the words “October first and June thirtieth of the
59 year”, and inserting in place thereof the following:- December first and June thirtieth.

60 SECTION 5. Section 8 of said chapter 61A, as so appearing, is hereby amended by
61 striking out said section and inserting in place thereof the following new section:-

62 Section 8. In any tax year for which a city or town has undertaken and completed a
63 program of revaluation of all property therein, applications by landowners for the valuation,
64 assessment and taxation of their lands on the basis of being actively devoted to agricultural or
65 horticultural use that are filed with the board of assessors not later than the last day for filing an
66 application for abatement of the tax assessed on the new valuation shall be deemed to have been
67 timely made for the tax year of the revaluation program, notwithstanding any provision of this
68 chapter to the contrary. If such application is approved and the lands qualify for valuation,
69 assessment and taxation as lands actively devoted to agricultural, horticultural or agricultural and
70 horticultural use in such tax year, that portion of any tax assessed for such year which is in
71 excess of the tax which would have been assessed on such lands had such application been
72 timely made and approved shall be abated.

73 SECTION 6. Section 14 of said chapter 61A, as so appearing, is hereby amended by
74 striking out the eighteenth paragraph and inserting in place thereof the following paragraph:-

75 The assignment shall be for the purpose of maintaining no less than 70 per cent of the
76 land in use as forest land as defined in section 1 of chapter 61, as agricultural and horticultural
77 land as defined in sections 1 and 2 of this chapter or as recreation land as defined in section 1 of
78 chapter 61B, and in no case shall the assignee develop a greater proportion of the land than was
79 proposed by the developer whose offer gave rise to the assignment. All land other than land that
80 is to be developed shall then be bound by a permanent deed restriction that meets the
81 requirements of chapter 184.

82 SECTION 7. Section 3 of chapter 61B of the General Laws, as so appearing, is hereby
83 amended by striking out said section and inserting in place thereof the following new section:-

84 Section 3. Eligibility of land for valuation, assessment and taxation under this chapter
85 shall be determined separately for each tax year. Application therefor shall be submitted to the
86 board of assessors of each city or town in which such land is situated not later than December
87 first preceding each tax year for which such valuation, assessment and taxation is being sought.
88 Application shall be made on a form prescribed by the commissioner of revenue and provided
89 for the use of applicants by said board of assessors. Such form shall provide for the reporting of
90 information pertinent to the provisions of this chapter and for certification by the applicant that
91 he will immediately, but no later than the December first next following, notify the board of
92 assessors in writing of any subsequent circumstance within his control or knowledge which may
93 cause a change in use of the land covered by such form. Any application submitted under this
94 section and covering leased land shall be accompanied by a written statement signed by the
95 lessee of his intent to use such land for the purposes set forth in said application. A certification
96 by a landowner that the information set forth in his application is true may be prescribed by said
97 commissioner to be in lieu of a sworn statement to that effect. An application so certified shall be
98 considered as if made under oath and subject to the same penalties as provided by law for
99 perjury. Upon allowance of any such application under section 6, classification as recreation land
100 shall take effect on January first preceding the beginning of the tax year to which the application
101 relates and taxation under this chapter shall commence with that tax year

102 SECTION 8. Section 4 of said chapter 61B, as so appearing, is hereby amended by
103 striking out, in lines 2 and 3, the words “October first and June thirtieth of the year”, and
104 inserting in place thereof the following:- December first and June thirtieth.

105 SECTION 9. Section 5 of said chapter 61B, as so appearing, is hereby amended by
106 striking out said section and inserting in place thereof the following new section:-

107 Section 5. In any tax year for which a city or town has undertaken and completed a
108 program of revaluation of all property therein, applications by landowners for the valuation,
109 assessment and taxation of their lands on the basis of being maintained in recreational use that
110 are filed with the board of assessors not later than the last day for filing an application for
111 abatement of the tax assessed on the new valuation shall be deemed to have been timely made
112 for the tax year of the revaluation program, notwithstanding any provision of this chapter to the
113 contrary. If such application is approved and the lands qualify for valuation, assessment and
114 taxation as lands maintained for recreational use in such tax year, the portion of any tax assessed
115 for such year which is in excess of the tax which would have been assessed on such lands had
116 such application been timely made and approved shall be abated.

117 SECTION 10. Section 6 of said chapter 61B, as so appearing, is hereby amended by
118 striking out, in line 13, the words “a disallowance”, and inserting in place thereof the following:-
119 an allowance.

120 SECTION 11. Section 9 of said chapter 61B, as so appearing, is hereby amended by
121 striking out the eighteenth paragraph and inserting in place thereof the following paragraph:-

122 The assignment shall be for the purpose of maintaining no less than 70 per cent of the
123 land in use as forest land as defined in section 1 of chapter 61, as agricultural and horticultural
124 land as defined in sections 1 and 2 of chapter 61A or as recreation land as defined in section 1 of
125 this chapter, and in no case shall the assignee develop a greater proportion of the land than was
126 proposed by the developer whose offer gave rise to the assignment. All land other than land that

127 is to be developed shall then be bound by a permanent deed restriction that meets the
128 requirements of chapter 184.