

HOUSE No. 4067

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to a cranberry bog renovation tax credit.

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 6 of chapter 62 of the General Laws, as appearing in the 2016
2 Official Edition, is hereby amended by adding at the end thereof the following subsection:-

3 (u) (1) For the purposes of this subsection, the following words shall have the following
4 meanings unless the context clearly requires otherwise:-

5 “Cranberry bog” or “bog”, an area actively cultivated for the harvesting or production of
6 any variety of cranberry.

7 "Qualified renovation", any renovation, repair, replacement, re-grading or restoration of a
8 cranberry bog for the purpose of cultivating, harvesting or producing any variety of cranberry, or
9 otherwise any other activity or action associated with the renovation of an abandoned cranberry
10 bog. The term “qualified renovation” shall not include the construction of facilities or structures
11 for the purpose of processing cranberries.

12 “Qualified renovation expenditure”, any expenditure or cost directly incurred in
13 connection with the qualified renovation of a cranberry bog. The term “qualified renovation
14 expenditure” shall not include costs incurred in acquiring or purchasing property in relation to
15 the construction of structures for the purpose of cultivating, harvesting or producing cranberries.

16 “Secretary”, the secretary of energy and environmental affairs.

17 (2)(i) A taxpayer primarily engaged in cranberry production shall be allowed a refundable
18 credit against the taxes imposed by this chapter equal to 25 per cent of the total qualified
19 renovation expenditures incurred in connection with the qualified renovation of a cranberry bog
20 during the taxable year; provided, however, that the amount of the credit that may be claimed by
21 a taxpayer under this subsection shall not exceed \$100,000. If the amount of the credit allowed
22 under this subsection exceeds the taxpayer's tax liability, the commissioner shall treat the excess
23 as an overpayment and shall pay the taxpayer the amount of the excess, without interest.

24 Alternatively, at the option of the taxpayer, a taxpayer entitled to a credit under this subsection
25 for a taxable year may carry over and apply against the taxpayer's tax liability for any 1 or more
26 of the succeeding 5 taxable years, the portion, as reduced from year to year, of the credit which
27 exceeds the tax for the taxable year. If the taxpayer elects to carry over a credit balance, then the
28 credit refund provision allowed by this subsection shall not apply.

29 (ii) The secretary, in consultation with the commissioner of agricultural resources, shall
30 authorize annually, for the period beginning January 1, 2018 and ending December 31, 2022, tax
31 credits under this subsection together with section 38GG of chapter 63. The total cumulative
32 value of the tax credits authorized pursuant to this section and section 38GG of chapter 63 shall

33 not exceed \$2,000,000 annually. No credits shall be allowed under this subsection except to the
34 extent authorized in this paragraph.

35 (3) For a taxpayer to qualify for the credit provided for under this subsection, the
36 taxpayer shall file with the secretary a summary of qualified renovation expenditures in
37 connection with the qualified renovation. The secretary shall approve the summary of qualified
38 renovation expenditures and provide notice to the commissioner. Any qualified renovation
39 expenditures applicable to this credit shall be treated for purposes of this subsection as made on
40 the date that the secretary provides notice of the certification to the commissioner.

41 (4) Any portion of tax credits not awarded by the secretary in a calendar year shall not be
42 applied to awards in a subsequent year. The secretary shall provide any documentation that the
43 commissioner may deem necessary to confirm compliance with subparagraph (ii) of paragraph
44 (2) and the commissioner shall provide a report confirming compliance to the secretary of
45 administration and finance.

46 (5) The secretary shall annually, not later than September 1, file a report with the house
47 and senate committees on ways and means, the chairs of the joint committee on environment,
48 natural resources, and agriculture and the chairs of the joint committee on revenue identifying
49 the total amount of tax credits claimed and the total amount of tax credits refunded pursuant to
50 this subsection in the preceding fiscal year.

51 (6) The commissioner, in consultation with the secretary and the commissioner of
52 agricultural resources, shall promulgate regulations or other guidelines necessary for the
53 administration and implementation of this subsection.

54 SECTION 2. Chapter 63 of the General Laws is hereby amended by inserting after
55 section 38FF the following section:-

56 Section 38GG. (a) For purposes of this section, the following terms shall have the
57 following meanings unless the context clearly requires otherwise:

58 “Commissioner”, the commissioner of revenue

59 “Cranberry bog” or “bog”, an area actively cultivated for the harvesting or production of
60 any variety of cranberry.

61 "Qualified renovation", any renovation, repair, replacement, re-grading or restoration of a
62 cranberry bog for the purpose of cultivating, harvesting or producing any variety of cranberry, or
63 otherwise any other activity or action associated with the renovation of an abandoned cranberry
64 bog. The term “qualified renovation” shall not include the construction of facilities or structures
65 for the purpose of processing cranberries.

66 “Qualified renovation expenditure”, any expenditure or cost directly incurred in
67 connection with the qualified renovation of a cranberry bog. The term “qualified renovation
68 expenditure” shall not include costs incurred in acquiring or purchasing property in relation to
69 the construction of structures for the purpose of cultivating, harvesting or producing cranberries.

70 “Secretary”, the secretary of energy and environmental affairs.

71 (b)(1) A taxpayer primarily engaged in cranberry production shall be allowed a
72 refundable credit against the taxes imposed by this chapter equal to 25 per cent of the total
73 qualified renovation expenditures incurred in connection with the qualified renovation of a
74 cranberry bog during the taxable year; provided, however, that the amount of the credit that may

75 be claimed by a taxpayer under this section shall not exceed \$100,000. If the amount of the credit
76 allowed under this section exceeds the taxpayer's tax liability, the commissioner shall treat the
77 excess as an overpayment and shall pay the taxpayer the amount of the excess, without interest.
78 Alternatively, at the option of the taxpayer, a taxpayer entitled to a credit under this subsection
79 for a taxable year may carry over and apply against the taxpayer's tax liability for any 1 or more
80 of the succeeding 5 taxable years, the portion, as reduced from year to year, of the credit which
81 exceeds the tax for the taxable year. If the taxpayer elects to carry over a credit balance, then the
82 credit refund provision allowed by this section shall not apply.

83 (2) The secretary, in consultation with the commissioner of agricultural resources, shall
84 authorize annually, for the period beginning January 1, 2018 and ending December 31, 2022, tax
85 credits under this subsection together with subsection (u) of section 6 of chapter 62. The total
86 cumulative value of the tax credits authorized pursuant to this section and subsection (u) of
87 section 6 of chapter 62 shall not exceed \$2,000,000 annually. No credits shall be allowed under
88 this section except to the extent authorized in this subsection.

89 (c) For a taxpayer to qualify for the credit provided for under this section, the taxpayer
90 shall file with the secretary a summary of qualified renovation expenditures in connection with
91 the qualified renovation. The secretary shall approve the summary of qualified renovation
92 expenditures and provide notice to the commissioner. Any qualified renovation expenditures
93 applicable to this credit shall be treated for purposes of this section as made on the date that the
94 secretary provides notice of the certification to the commissioner.

95 (d) Any portion of tax credits not awarded by the secretary in a calendar year shall not be
96 applied to awards in a subsequent year. The secretary shall provide any documentation that the

97 commissioner may deem necessary to confirm compliance with paragraph (2) of subsection (b)
98 and the commissioner shall provide a report confirming compliance to the secretary of
99 administration and finance.

100 (e) The secretary shall annually, not later than September 1, file a report with the house
101 and senate committees on ways and means, the chairs of the joint committee on environment,
102 natural resources, and agriculture and the chairs of the joint committee on revenue identifying
103 the total amount of tax credits claimed and the total amount of tax credits refunded pursuant to
104 this section in the preceding fiscal year.

105 (f) The commissioner, in consultation with the secretary and the commissioner of
106 agricultural resources, shall promulgate regulations or other guidelines necessary for the
107 administration and implementation of this section.