SENATE . . . . . No. 2124

The Commonwealth of Massac

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

SENATE, July 20, 2017

The committee on Rules to whom was referred the Senate Bill relative to senior citizen property taxes (Senate, No. 1503) (also based on Senate, Nos. 1514, 1543, 1583, 1607 and 1644).,-- reports, that the matter be placed on the Orders of the Day for July 24, 2017 with an recommended amendment substituting a new draft entitled “An Act improving real property tax abatements, application deadlines, and deferrals” (Senate, No. 2124)

For the committee,
Mark C. Montigny

SENATE . . . . . No. 2124

The Commonwealth of Massachusetts

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

An Act improving real property tax abatements, application deadlines, and deferrals

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. Section 5 of chapter 59 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out, in line 11, the words “or Fifty-seventh” and inserting in place thereof the following words:- , Fifty-seventh, Fifty-ninth or Sixtieth.

SECTION 2. Clause Eighteenth A of said section 5 of said chapter 59, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

In addition to the remedies provided by this clause, the recorded statement of the assessors provided for in this clause shall have the same force and effect as a valid taking for nonpayment of taxes pursuant to section 53 of chapter 60, except that: (i) interest shall accrue at the rate provided in subclause (1) until the conveyance of the property or the death of the person whose taxes have been deferred, after which time interest shall accrue at the rate provided in section 62 of said chapter 60 or at a lesser rate as may be determined by the legislative body of the city or town, subject to its charter, not later than the beginning of the fiscal year to which the tax relates; provided, however, that a city or town may also, by vote of its legislative body, allow

the interest to accrue at the rate provided in said subclause (1) for 1 year after the death of the person whose taxes have been deferred; (ii) no assignment of the municipality's interest under this clause may be made pursuant to section 52 of said chapter 60; and (iii) a petition pursuant to section 65 of said chapter 60 to foreclose the lien may be filed if at least 1 year has passed since the conveyance of the property or the death of the person whose taxes have been deferred.

SECTION 3. Clause Forty-first A of said section 5 of said chapter 59, as so appearing, is hereby amended by striking out, in lines 1121 to 1124, inclusive, the words "the amount of income determined by the commissioner of revenue for the purposes of subsection (k) of section 6 of chapter 62, for a single person who is not a head of household" and inserting in place thereof the following figure:- $80,000.

SECTION 4. Said clause Forty-first A of said section 5 of said chapter 59, as so appearing, is hereby further amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

In addition to the remedies provided by this clause, the recorded statement of the assessors provided for in this clause shall have the same force and effect as a valid taking for nonpayment of taxes pursuant to section 53 of chapter 60, except that: (i) interest shall accrue at the rate provided in subclause (1) of the third paragraph until the conveyance of the property or the death of the person whose taxes have been deferred, after which time interest shall accrue at the rate provided in section 62 of said chapter 60 or at a lesser rate as may be determined by the legislative body of the city or town, subject to its charter, not later than the beginning of the fiscal year to which the tax relates; provided, however, that a city or town may also, by vote of its legislative body, allow the interest to accrue at the rate provided in said subclause (1) of the

third paragraph for 1 year after the death of the person whose taxes have been deferred; (ii) no assignment of the municipality's interest pursuant to this clause may be made pursuant to section 52 of chapter 60; and (iii) a petition pursuant to section 65 of chapter 60 to foreclose the lien may be filed if at least 1 year has passed since the conveyance of the property or the death of the person whose taxes have been deferred.

SECTION 5. Said section 5 of said chapter 59, as so appearing, is hereby further amended by adding the following 2 clauses:-

Fifty-ninth, Real property, to the amount of $5,000 of the taxable valuation of that property, or the sum of $437.50, whichever would result in an abatement of the greater amount of actual taxes due, of a person who is deaf, as defined in section 191 of chapter 6, and is a legal resident of the commonwealth, whether that property is owned by that person separately or jointly or as a tenant in common, if that property is occupied by that person as the person's domicile. Such property shall not be exempt if it was conveyed to the deaf person to evade taxation. This clause shall take effect upon its acceptance by a city or town.

Sixtieth, The sum of $500 of the actual taxes due on the real property of a person who is deaf, as defined in section 191 of chapter 6, and is a legal resident of the commonwealth, whether that property is owned by that person separately or jointly or as a tenant in common, if that property is occupied by that person as the person's domicile. No such property shall be exempt if it was conveyed to the person who is deaf to evade taxation. This clause shall take effect upon its acceptance by a city or town. In a city or town that accepts this clause, clause Fifty-ninth shall not apply.

SECTION 6. Section 59 of said chapter 59, as so appearing, is hereby amended by striking out, in line 48, the words “and Fifty-seventh” and inserting in place thereof the following words:- , Fifty-seventh, Fifty-ninth and Sixtieth.

SECTION 7. Section 2 of chapter 61 of the General Laws, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

When, in the judgment of the assessors, land which is classified as forest land or which is the subject of an application for such classification is not being managed under a program, is being used for purposes incompatible with forest production or does not otherwise qualify under this chapter, the assessors may, not later than February 1 in any year, file an appeal in writing mailed by certified mail to the state forester requesting a denial of application or, in the case of classified forest land, requesting removal of the land from such classification. The appeal shall state the reasons for the request. A copy of the appeal shall be mailed by the assessors by certified mail to the owner of the land. The state forester may initiate, not later than December 1 of any year, a proceeding to remove land from classification, sending notice of the action by certified mail to the assessors and the owner of the land. The state forester may deny the owner's application, may withdraw all or part of the land from classification or may grant the application, imposing terms and conditions that the state forester deems reasonable to carry out this chapter, and shall notify the assessors and the owner of that decision not later than March 1 of the following year. If the owner or the assessors are aggrieved by a decision of the state forester they may, not later than June 15, give notice to the state forester of a claim of appeal. Not later than 30 days after receipt of a notice of appeal, the state forester shall convene a panel in the region in which the land is located. The panel shall consist of 3 members, 1 of whom shall be named by

the state forester, 1 of whom shall be named by the assessors and 1 of whom shall be named by the state forester and the assessors. The panel shall give notice of the date, time and place of the hearing in writing to the parties not less than 7 days before the date of that hearing. The panel shall furnish the parties, in writing, with a notice of its decision not later than 10 days after the adjournment of the hearing. Decisions of the panel shall be by majority vote of its members. If the owner or the assessors are aggrieved by a decision of the panel, they may, not more than 45 days after receipt of the decision, petition either the superior court in the county in which the land is located for a review of the decision, pursuant to chapter 30A, or the appellate tax board, pursuant to chapter 58A; provided further, that the land shall not be classified or withdrawn from classification until the final determination of such petition. The state forester may adopt such regulations as the state forester deems necessary to carry out this chapter.

SECTION 8. Said section 2 of said chapter 61, as so appearing, is hereby further amended by striking out, in line 40, the word “October” and inserting in place thereof the following word:- December.

SECTION 9. Chapter 61A of the General Laws is hereby amended by striking out section 6, as so appearing, and inserting in place thereof the following section:-

Section 6. The eligibility of land for valuation, assessment and taxation pursuant to section 4 shall be determined separately for each tax year. An application for eligibility shall be submitted to the board of assessors in the city or town in which the land is situated by not later than December 1 preceding each tax year for which the valuation, assessment and taxation are being sought. The application shall not be withdrawn after it is submitted. An application shall be made on a form prescribed by the commissioner of revenue and provided to applicants by the

board of assessors. The form shall provide for the reporting of information pertinent to this chapter and to Article XCIX of the Articles of Amendment to the Constitution of the Commonwealth and for certification by the applicant that the applicant will immediately, but not later than December 1 of the following year, notify the board of assessors in writing of any subsequently developing circumstance within the applicant's control or knowledge which may cause a change in use of the land covered by the form. An application submitted pursuant to this section for leased land shall be accompanied by a written statement of the lessee's intent to use the land for the purposes in the application and shall be signed by the lessee. The landowner shall certify, in a manner prescribed by the commissioner, that under the penalties of perjury the information in the landowner's application is true. If the application is allowed pursuant to section 9, then the classification of the land as actively devoted to agricultural, horticultural or agricultural and horticultural use shall take effect on January 1 preceding the beginning of the tax year to which the application relates and taxation pursuant to this chapter shall commence with that tax year.

SECTION 10. Section 7 of said chapter 61A, as so appearing, is hereby amended by striking out, in line 3, the words "October first and June thirtieth of the year" and inserting in place thereof the following words:- December 1 and June 30.

SECTION 11. Said chapter 61A is hereby further amended by striking out section 8, as so appearing, and inserting in place thereof the following section:-

Section 8. Notwithstanding any provision of this chapter to the contrary, in any tax year for which a city or town has undertaken and completed a program of revaluation of all property in that city or town, applications by landowners for the valuation, assessment and taxation of

their lands on the basis of being actively devoted to agricultural, horticultural or agricultural and horticultural use that are filed with the board of assessors by not later than the last day for filing an application for abatement of the tax assessed on the new valuation shall be deemed to have been timely made for the tax year of the revaluation program. If the application is approved and the lands qualify for valuation, assessment and taxation as lands actively devoted to agricultural, horticultural or agricultural and horticultural use in that tax year, then the portion of any tax assessed for that year which is in excess of the tax that would have been assessed on the lands, if the application had been timely made and approved, shall be abated.

SECTION 12. Section 14 of said chapter 61A, as so appearing, is hereby amended by striking out the eighteenth paragraph and inserting in place thereof the following paragraph:-

The assignment shall be for the purpose of maintaining not less than 70 per cent of the land in use as forest land as defined in section 1 of chapter 61, as land in agricultural or horticultural use as defined in sections 1 and 2 or as recreational land as defined in section 1 of chapter 61B, and in no case shall the assignee develop a greater proportion of the land than was proposed by the developer whose offer gave rise to the assignment. All land other than land that is to be developed shall then be bound by a permanent deed restriction that meets the requirements of chapter 184.

SECTION 13. Chapter 61B of the General Laws is hereby amended by striking out section 3, as so appearing, and inserting in place thereof the following section:-

Section 3. The eligibility of land for valuation, assessment and taxation pursuant to this chapter shall be determined separately for each tax year. An application for eligibility shall be submitted to the board of assessors in the city or town in which the land is situated by not later

than December 1 preceding each tax year for which the valuation, assessment and taxation is being sought. The application shall be made on a form prescribed by the commissioner of revenue and provided to applicants by the board of assessors. The form shall provide for the reporting of information pertinent to this chapter and for certification by the applicant that the applicant will immediately, but not later than the December 1 of the following year, notify the board of assessors in writing of any subsequent circumstance within the applicant's control or knowledge which may cause a change in use of the land covered by the form. An application submitted pursuant to this section for leased land shall be accompanied by a written statement of the lessee's intent to use the land for the purposes in the application and shall be signed by the lessee. The landowner shall certify, in a manner prescribed by the commissioner, that under the penalties of perjury the information in the landowner's application is true. If the application is allowed pursuant to section 6, then the classification of the land as recreational land shall take effect on January 1 preceding the beginning of the tax year to which the application relates and taxation pursuant to this chapter shall commence with that tax year.

SECTION 14. Section 4 of said chapter 61B, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "October first and June thirtieth of the year" and inserting in place thereof the following words:- December 1 and June 30.

SECTION 15. Said chapter 61B is hereby further amended by striking out section 5, as so appearing, and inserting in place thereof the following section:-

Section 5. Notwithstanding any provision of this chapter to the contrary, in any tax year for which a city or town has undertaken and completed a program of revaluation of all property in that city or town, applications by landowners for the valuation, assessment and taxation of

their lands on the basis of being maintained in recreational use, if filed with the board of assessors by not later than the last day for filing an application for abatement of the tax assessed on the new valuation, shall be deemed to have been timely made for the tax year of the revaluation program. If the application is approved and the lands qualify for valuation, assessment and taxation as lands actively devoted to agricultural, horticultural or agricultural and horticultural use in that tax year, then the portion of a tax assessed for that year which is in excess of the tax which would have been assessed on the lands, if the application had been timely made and approved, shall be abated.

SECTION 16. Section 6 of said chapter 61B, as so appearing, is hereby amended by striking out, in line 13, the words “a disallowance” and inserting in place thereof the following words:- an allowance.

SECTION 17. Section 9 of said chapter 61B, as so appearing, is hereby amended by striking out the eighteenth paragraph and inserting in place thereof the following paragraph:-

The assignment shall be for the purpose of maintaining not less than 70 per cent of the land in use as forest land as defined in section 1 of chapter 61, as land in agricultural or horticultural use as described in sections 1 and 2 of chapter 61A or as recreation land as described in section 1 and the assignee shall not develop a greater proportion of the land than was proposed by the developer whose offer gave rise to the assignment. All land other than land that is to be developed shall then be bound by a permanent deed restriction that meets the requirements of chapter 184.

SECTION 18. Sections 1 and 6 shall take effect on July 1, 2018.