HOUSE DOCKET, NO. 1957 FILED ON: 1/17/2019

HOUSE . . . . . No. 2587

The Commonwealth of Massachusetts

PRESENTED BY:

Sarah K. Peake

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 providing tax relief to seniors while creating affordable housing.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Sarah K. Peake	*4th Barnstable*	*1/17/2019*
William L. Crocker, Jr.	*2nd Barnstable*	*1/24/2019*
Carolyn C. Dykema	*8th Middlesex*	*1/24/2019*
Christine P. Barber	*34th Middlesex*	*1/28/2019*
Josh S. Cutler	*6th Plymouth*	*1/28/2019*
John J. Lawn, Jr.	*10th Middlesex*	*1/28/2019*
Harriette L. Chandler	*First Worcester*	*1/28/2019*
Brian M. Ashe	*2nd Hampden*	*1/28/2019*
Stephan Hay	*3rd Worcester*	*1/29/2019*
Brian W. Murray	*10th Worcester*	*1/30/2019*
Jay D. Livingstone	*8th Suffolk*	*1/30/2019*
Natalie M. Higgins	*4th Worcester*	*1/30/2019*
Kevin G. Honan	*17th Suffolk*	*1/30/2019*
Mathew J. Muratore	*1st Plymouth*	*1/30/2019*
José F. Tosado	*9th Hampden*	*1/30/2019*
Bud L. Williams	*11th Hampden*	*1/30/2019*
Julian Cyr	*Cape and Islands*	*2/1/2019*
Patrick Joseph Kearney	*4th Plymouth*	*2/1/2019*

Michael O. Moore	*Second Worcester*	*2/1/2019*
Jon Santiago	*9th Suffolk*	*2/1/2019*
David Henry Argosky LeBoeuf	*17th Worcester*	*2/1/2019*
Mike Connolly	*26th Middlesex*	*2/1/2019*
Chynah Tyler	*7th Suffolk*	*2/1/2019*

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By Ms. Peake of Provincetown, a petition (accompanied by bill, House, No. 2587) of Sarah K. Peake and others for legislation to authorize municipalities to offer property tax relief to certain eligible homeowners. Revenue.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE DOCKET, NO. *4353* OF 2017-2018.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

An Act providing tax relief to seniors while creating affordable housing.

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. Chapter 59 of the General Laws, as appearing in the 2016 official edition, is hereby amended by inserting after section 5N the following new section:-

Section 5O. (a) As used in this chapter, the following words shall, unless the context clearly indicates a different meaning, have the following meanings:—

"Annual income", a family's or person's gross annual income less such reasonable allowances for dependents, other than a spouse, and for medical expenses as the housing authority or, in the event that there is no housing authority, the municipal's department of community development, determines.

"Community housing", low and moderate income housing for individuals and families, including low or moderate income senior housing.

"Homeowner," the owner of a Residence, as defined herein. The deed to the Residence may be held by a corporation, trust, or other legal entity, so long as at least one individual who occupies the Residence is a primary beneficiary of such entity.

"Legislative body", the agency of municipal government which is empowered to enact ordinances or by-laws, adopt an annual budget and other spending authorizations, loan orders, bond authorizations and other financial matters and whether styled as a city council, board of aldermen, town council, town meeting or by any other title.

"Low income housing", housing for those persons and families whose annual income is less than 80 per cent of the areawide median income. The areawide median income shall be the areawide median income as determined by the United States department of housing and urban development.

"Low or moderate income senior housing", housing for those persons having reached the age of 60 or over who would qualify for low or moderate income housing.

"Moderate income housing", housing for those persons and families whose annual income is less than 100 per cent of the areawide median income. The areawide median income shall be the areawide median income as determined by the United States department of housing and urban development.

"Residence", the building or portion thereof, including a mobile home, owned and actually occupied by the Homeowner as the Homeowner's primary dwelling during the municipality's fiscal year and located within the commonwealth, together with so much of the land surrounding it, not to exceed one acre, as is reasonably necessary to the use of the dwelling as a home, and any appurtenant structures and fixtures attached to buildings or land. A residence may consist of a part of a multi-unit or multi-purpose building. If the Homeowner occupies the property as a primary dwelling and rents no more than two of the remaining units to tenants, those rental units shall be considered "Ancillary Units."

(b) A municipality may, by vote of its legislative body, subject to the charter of the municipality, establish a Homes Preservation Plan offering to persons over the age of 65, and/or persons who meet the income requirements for Low or Moderate Income Housing, as defined herein, the opportunity to enter into a right of first refusal agreement with the municipality in exchange for deferral of some or all of the real property tax obligations owed, directly or indirectly, by such person on the value of a Residence. The deferred real property tax obligations shall be paid, without interest or cost, at the time the Residence is sold to the municipality or its assignee, or sold to a third party if the municipality does not exercise its right of first refusal.

A municipality may, at its election, include a qualifying Homeowner and Residence with Ancillary Units in its Plan and offer deferral of the real property tax obligations owed on the value of such Ancillary Units.

Such municipalities shall have the power to create local rules and procedures for implementing a Homes Preservation Plan consistent with the provisions and intent of this chapter, provided that the Plan and any amendments thereto, are filed with the Massachusetts

department of housing and community development at least fourteen (14) days before its effective date.

(c) A Homes Preservation Plan, as authorized in this chapter, shall provide that qualifying Homeowners execute a Property Tax Relief and Right of First Refusal Agreement with the municipality setting forth the terms of the proposed exchange, including at least the following: (1) identification of the Homeowner and of the Residence; (2) the amount of property tax to be deferred annually, stated in percentage or dollars; (3) the respective rights and obligations of the parties with respect to the municipality's right of first refusal upon notice of sale; (4) the respective rights, if any, to terminate the agreement; and (5) the Homeowner's declaration that there has been representation of counsel, or reasonable opportunity to obtain counsel, and that the Homeowner understands that the agreement is binding on estate representatives, successors and heirs. A municipality may require in said agreement that the Homeowner sign an annual certification that ownership of the Residence has not changed and that the Residence remains the Homeowner's primary dwelling.

(d) A municipality that has executed a Property Tax Relief and Right of First Refusal Agreement with a Homeowner under this section shall record notice of such agreement at the registry of deeds, which notice shall contain the name of the record owner of the land, the name of any individual who is a beneficial owner of the land if the record owner is a corporation or trust, and description of the premises adequate for identification of it. A municipality that has recorded notice of its right of first refusal shall be an interested person in the estate of any individual identified in the notice as record owner, or as a beneficial owner, and shall be entitled to notice in a proceeding to settle that individual's estate.

(e) The real property taxes deferred as a result of participation by a Homeowner in a Homes Protection Plan shall be calculated and treated as a municipal charges lien under Chapter 40, section 58 by the municipality, except that interest and costs shall not be owed to the municipality upon sale of the Residence.

(f) A Residence subject to a right of first refusal under this chapter shall not be sold unless the municipality has been notified first of the intent to sell, through a document stating the name, address and telephone number of the Homeowner and realtor, if any, and street address of the Residence and either: (a) a certified copy of an executed purchase and sale agreement specifying the purchase price and all terms and conditions of the proposed sale, and which shall be a bona fide offer as described below, or (b) a statement of intent to sell the property.

For the purposes of this chapter, a bona fide offer to purchase shall mean a good faith offer, not dependent upon potential changes to current zoning or conditions or contingencies relating to the potential for, or the potential extent of, subdivision of the property for residential use or the potential for, or the potential extent of development of the property for residential, industrial or commercial use, made by a party unaffiliated with the Homeowner for a fixed consideration payable upon delivery of the deed.

The municipality's Homes Protection Plan shall specify the required municipal recipients of the notice and the means of delivery.

(g) For a period of sixty (60) days after receipt of notice which complies with this chapter, the municipality shall have, in the case of an executed purchase and sale, a first refusal option to meet a bona fide offer to purchase the land. The dollar amount of the municipal charges lien will be credited to the municipality's offer.

In the case of a notice of intent to sell, the municipality shall have 60 days from receipt of notice to come to agreement with the homeowner on consideration. If mutually agreed-upon appraisals are required to come to agreement on the full and fair market value, the deadline for agreement may be extended for another 30 days. The expense for any such appraisal will be borne by the municipality. Upon agreement of a consideration, the city or town shall then have 120 days to exercise its option. During the determination of consideration process, the Homeowner may revoke the intent to sell at any time and with no recourse to either party.

The municipal option to purchase may be exercised only after written notice to the Homeowner, using the means of notice specified in the Property Tax Relief and Right of First Refusal Agreement. The notice of exercise shall also be recorded at the registry of deeds and shall contain the name of the record owner of the land and description of the premises adequate for identification of it.

The notice to the Homeowner of the municipality's election to exercise its option shall be accompanied by a proposed purchase and sale contract or other agreement between the municipality and the Homeowner which, if executed, shall be fulfilled within a period of not more than 90 days after the date the contract or agreement, endorsed by the Homeowner, is returned, or upon expiration of any extended period the Homeowner has agreed to in writing, whichever is later.

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

During the option period, the municipality or its assignees, shall have the right, at reasonable times and upon reasonable notice, to enter upon said land for the purpose of surveying and inspecting said land, including but not limited to lead paint inspection, soil testing for purposes of Title V and the taking of water samples.

The municipality or its assignee shall have all rights assigned to the buyer in the purchase and sales agreement contained in the notice of intent.

If the municipality elects not to exercise the option, and not to assign its right to exercise the option, the city or town shall send written notice of non-exercise signed by the chief executive officer to the Homeowner by the means of delivery that is specified in the Property Tax Relief and Right of First Refusal Agreement. The notice of non-exercise shall contain the name of the owner of record of the Residence and its street address, and shall be recorded with the registry of deeds.

No sale or change in use of the Residence shall be consummated until the option period has expired or the notice of non-exercise has been recorded with the registry of deeds, and no sale of the Residence shall be consummated if the terms of the sale differ in any material way from the terms of the purchase and sale agreement which accompanied the bona fide offer to purchase as described in the notice of intent to sell except as provided in this section.

This section shall not apply to a mortgage foreclosure sale, but the holder of a mortgage shall, at least 90 days before a foreclosure sale, send written notice of the time and place of the sale to the parties in the manner required by the municipality for notice of intent to sell, and the giving of this notice may be established by an affidavit.

(h) A municipality, by decision of its chief executive subject to its charter, may assign its option under this chapter to a nonprofit housing organization or to the commonwealth or any of its political subdivisions under terms and conditions that the municipality may consider appropriate. The assignment shall be for the purpose of providing community housing, as defined in this chapter, and the assignee shall then be bound by a deed restriction that meets the requirements of this chapter. If the first refusal option has been assigned to a nonprofit organization or to the commonwealth or any of its political subdivisions as provided in this section, the municipality shall provide written notice of assignment to the Homeowner and said notice of assignment shall be recorded with the registry of deeds.

If the option has been assigned, the option may be exercised by the assignee only by written notice to the Homeowner signed by the assignee, delivered by means specified in the Property Tax Relief and Right of First Refusal Agreement. The notice of exercise shall also be recorded with the registry of deeds and shall contain the name of the record owner of the land and description of the premises adequate for identification of them.

(i) A Residence acquired by a municipality or its assignee under the terms of this chapter shall be restricted to use as community housing for a term of no less than thirty (30) years, with a deed restriction stating the income qualifications established by the municipality. The municipality or its assignee may, at its election, sell the Residence to an income-qualified buyer subject to said deed restriction and, in the case of a Residence with Ancillary Units, may seek to change the ownership form to a condominium and sell the individual units to income-qualified buyers subject to deed restrictions.

(j) A Homeowner who uses Chapter 62, section 6 to seek a state income tax credit on account of real property taxes paid on a Residence may not, in that same tax year, obtain deferral of real property taxes from the municipality.

(k) A municipality may structure its Homes Protection Plan so that, in the event that the person(s) that qualify the Homeowner for participation in the Plan no longer reside(s) in the Residence but the Homeowner does not intend to sell within one (1) year, the municipality has a right to terminate or suspend the deferral of real property tax obligations. If the municipality reserves the right to terminate or suspend the deferral in such situations, its Plan and the Property Tax Relief and Right of First Refusal Agreement must specify the conditions that trigger its right to terminate or suspend and the possible consequences for the Homeowner.

(l) If a municipality elects to include a Residence with Ancillary Units in its Homes Protection Plan, it may require the Homeowner, as a condition, to agree to limit rent increases in the Ancillary Units as stipulated in the signed Property Tax Relief and Right of First Refusal Agreement.