HOUSE DOCKET, NO. 2718 FILED ON: 2/18/2021

HOUSE . . . . . No. 3090

The Commonwealth of Massachusetts

PRESENTED BY:

Tommy Vitolo and David M. Rogers

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 senior property tax deferral.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Tommy Vitolo	*15th Norfolk*	*2/18/2021*
David M. Rogers	*24th Middlesex*	*2/25/2021*
David F. DeCoste	*5th Plymouth*	*2/26/2021*
Vanna Howard	*17th Middlesex*	*2/26/2021*
James B. Eldridge	*Middlesex and Worcester*	*2/26/2021*
David Allen Robertson	*19th Middlesex*	*2/26/2021*
Michelle L. Ciccolo	*15th Middlesex*	*2/26/2021*
Patricia A. Haddad	*5th Bristol*	*3/3/2021*
Patricia D. Jehlen	*Second Middlesex*	*3/1/2021*
Adam J. Scanlon	*14th Bristol*	*3/23/2021*
Steven G. Xiarhos	*5th Barnstable*	*9/16/2021*
Natalie M. Higgins	*4th Worcester*	*12/29/2021*

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HOUSE . . . . . No. 3090

By Messrs. Vitolo of Brookline and Rogers of Cambridge, a petition (accompanied by bill, House, No. 3090) of Tommy Vitolo, David M. Rogers and others relative to property tax deferrals for certain senior citizens. Revenue.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act relative to senior property tax deferral.

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 is hereby amended by striking out clause Forty-first A and inserting in place thereof the following :-

Forty-first A, Real property, to an amount determined as hereinafter provided, of a person 65 years of age or over and occupied by said person as their domicile, of a person who owns the same jointly with their spouse, either of whom is 65 years of age or over, and occupied as their domicile, or of a person who owns the same jointly or as a tenant in common with a person not their spouse and occupied by said person as their domicile; provided, that said person, or said person and their spouse, if married, had, during the preceding year, gross receipts from all sources not in excess of the amount of income for a single individual who is not head of household or spouses filing a joint return, respectively, as determined by the commissioner of revenue for the purposes of subsection (k) of section 6 of chapter 62. In computing the gross

receipts of such an applicant or of such an applicant and their spouse, if married, ordinary business expenses and losses may be deducted but not personal and family expenses.

Any such person may, on or before the deadline for an application for exemption under section 59, apply to the board of assessors for an exemption of such real property from taxation during such year; provided, however, that in the case of real estate owned by a person jointly or as a tenant in common with a person not such person's spouse, the exemption shall not exceed that proportion of total valuation which the amount of such person's interest in such property bears to the whole tax due. The board of assessors shall grant such exemption provided that the owner or owners of such real property have entered into a tax deferral and recovery agreement with said board of assessors on behalf of the city or town. The said agreement shall provide:

(1) that no sale or transfer of such real property may be consummated unless the taxes which would otherwise have been assessed on such portion of the real property as is so exempt have been paid, with interest at the rate of the greater of (i) the municipality’s most recent municipal bond rate if the municipality has bonded within the preceding 3 years or (ii) the most recent bond rate of the commonwealth, or such lesser rate as may be determined by the legislative body of the city or town, subject to its charter, no later than the beginning of the fiscal year to which the tax relates;

(2) that the total amount of such taxes due, plus interest, for the current and prior years does not exceed 50 per cent of the owner's proportional share of the full and fair cash value of such real property;

(3) that upon the demise of the owner of such real property, the heirs-at-law, assignees or devisees shall have first priority to said real property by paying in full the total taxes which

would otherwise have been due, plus interest; provided, however, if such heir-at-law, assignee or devisee is a surviving spouse who enters into a tax deferral and recovery agreement under this clause, payment of the taxes and interest due shall not be required during the life of such surviving spouse. Any additional taxes deferred, plus interest, on said real property under a tax deferral and recovery agreement signed by a surviving spouse shall be added to the taxes and interest which would otherwise have been due, and the payment of which has been postponed during the life of such surviving spouse, in determining the 50 per cent requirement of subparagraph (2);

(4) that if the taxes due, plus interest, are not paid by the heir-at-law, assignee or devisee or if payment is not postponed during the life of a surviving spouse, such taxes and interest shall be recovered from the estate of the owner; and

(5) that any joint owner or mortgagee holding a mortgage on such property has given written prior approval for such agreement, which written approval shall be made a part of such agreement.

In the case of each tax deferral and recovery agreement entered into between the board of assessors and the owner or owners of such real property, said board of assessors shall forthwith cause to be recorded in the registry of deeds of the county or district in which the city or town is situated a statement of their action which shall constitute a lien upon the land covered by such agreement for such taxes as have been assessed under the provisions of this chapter, plus interest as hereinafter provided. A lien filed pursuant to this section shall be subsequent to any liens securing a reverse mortgage, excepting shared appreciation instruments. The statement shall name the owner or owners and shall include a description of the land adequate for identification.

Unless such a statement is recorded the lien shall not be effective with respect to a bona fide purchaser or other transferee without actual knowledge of such lien. The filing fee for such statement shall be paid by the city or town and shall be added to and become a part of the taxes due.

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 under the provisions of section 53 of chapter 60, except that: (1) interest shall accrue at the rate provided in this clause until the conveyance of the property or the expiration of 1 year after the death of the person whose taxes have been deferred, after which time interest shall accrue at the rate provided in section 62 of chapter 60; (2) no assignment of the municipality's interest under this clause may be made pursuant to section 52 of chapter 60; (3) no petition under section 65 of chapter 60 to foreclose the lien may be filed before the expiration of 6 months from either the conveyance of the property or the expiration of 1 year from the death of the person whose taxes have been deferred.

The board of assessors shall notify a property owner who has entered into a tax deferral and recovery agreement pursuant to this subsection at least annually, in writing, of the current balance owed under the agreement.

SECTION 2. Section 1 of this act shall apply to taxes assessed for fiscal years beginning on or after July 1, 2021.