

SENATE No. 1885

The Commonwealth of Massachusetts

PRESENTED BY:

Patricia D. Jehlen

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:	
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>5/7/2021</i>

SENATE No. 1885

By Ms. Jehlen, a petition (accompanied by bill, Senate, No. 1885) of Patricia D. Jehlen for legislation relative to senior property tax deferral. 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:

1 SECTION 1. Section 5 of chapter 59 of the General Laws is hereby amended by striking
2 out clause Forty-first A and inserting in place thereof the following :-

3 Forty-first A, Real property, to an amount determined as hereinafter provided, of a person
4 65 years of age or over and occupied by said person as their domicile, of a person who owns the
5 same jointly with their spouse, either of whom is 65 years of age or over, and occupied as their
6 domicile, or of a person who owns the same jointly or as a tenant in common with a person not
7 their spouse and occupied by said person as their domicile; provided, that said person, or said
8 person and their spouse, if married, had, during the preceding year, gross receipts from all
9 sources not in excess of the amount of income for a single individual who is not head of
10 household or spouses filing a joint return, respectively, as determined by the commissioner of
11 revenue for the purposes of subsection (k) of section 6 of chapter 62. In computing the gross
12 receipts of such an applicant or of such an applicant and their spouse, if married, ordinary
13 business expenses and losses may be deducted but not personal and family expenses.

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

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

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

32 (3) that upon the demise of the owner of such real property, the heirs-at-law, assignees or
33 devisees shall have first priority to said real property by paying in full the total taxes which
34 would otherwise have been due, plus interest; provided, however, if such heir-at-law, assignee or
35 devisee is a surviving spouse who enters into a tax deferral and recovery agreement under this

36 clause, payment of the taxes and interest due shall not be required during the life of such
37 surviving spouse. Any additional taxes deferred, plus interest, on said real property under a tax
38 deferral and recovery agreement signed by a surviving spouse shall be added to the taxes and
39 interest which would otherwise have been due, and the payment of which has been postponed
40 during the life of such surviving spouse, in determining the 50 per cent requirement of
41 subparagraph (2);

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

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

48 In the case of each tax deferral and recovery agreement entered into between the board of
49 assessors and the owner or owners of such real property, said board of assessors shall forthwith
50 cause to be recorded in the registry of deeds of the county or district in which the city or town is
51 situated a statement of their action which shall constitute a lien upon the land covered by such
52 agreement for such taxes as have been assessed under the provisions of this chapter, plus interest
53 as hereinafter provided. A lien filed pursuant to this section shall be subsequent to any liens
54 securing a reverse mortgage, excepting shared appreciation instruments. The statement shall
55 name the owner or owners and shall include a description of the land adequate for identification.
56 Unless such a statement is recorded the lien shall not be effective with respect to a bona fide
57 purchaser or other transferee without actual knowledge of such lien. The filing fee for such

58 statement shall be paid by the city or town and shall be added to and become a part of the taxes
59 due.

60 In addition to the remedies provided by this clause, the recorded statement of the
61 assessors provided for in this clause shall have the same force and effect as a valid taking for
62 nonpayment of taxes under the provisions of section 53 of chapter 60, except that: (1) interest
63 shall accrue at the rate provided in this clause until the conveyance of the property or the
64 expiration of 1 year after the death of the person whose taxes have been deferred, after which
65 time interest shall accrue at the rate provided in section 62 of chapter 60; (2) no assignment of
66 the municipality's interest under this clause may be made pursuant to section 52 of chapter 60;
67 (3) no petition under section 65 of chapter 60 to foreclose the lien may be filed before the
68 expiration of 6 months from either the conveyance of the property or the expiration of 1 year
69 from the death of the person whose taxes have been deferred.

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

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