HOUSE DOCKET, NO. 1137   FILED ON: 1/18/2023

HOUSE . . . . No. 2770

The Commonwealth of Massachusetts

PRESENTED BY:

Carol A. Doherty

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 to ease the tax burden on older adults, people with disabilities and their caregivers.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Carol A. Doherty	*3rd Bristol*	*1/18/2023*
Alan Silvia	*7th Bristol*	*2/2/2023*
Rodney M. Elliott	*16th Middlesex*	*2/9/2023*
Patrick M. O'Connor	*First Plymouth and Norfolk*	*2/9/2023*
Paul R. Feeney	*Bristol and Norfolk*	*3/7/2023*
James B. Eldridge	*Middlesex and Worcester*	*3/7/2023*
Jacob R. Oliveira	*Hampden, Hampshire and Worcester*	*3/27/2023*

HOUSE DOCKET, NO. 1137 FILED ON: 1/18/2023

HOUSE . . . . No. 2770

By Representative Doherty of Taunton, a petition (accompanied by bill, House, No. 2770) of Carol A. Doherty and others relative to the tax burden on older adults, persons with disabilities and their caregivers. Revenue.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act to ease the tax burden on older adults, people with disabilities and their caregivers.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Means-Tested Property Tax Relief for Older Adults

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 section:-

Section 5O. (a) As used in this section, the following words shall have the following meanings:--

"Parcel", a unit of real property as defined by the assessors of the city or town under the deed for the property, including a condominium unit.

"Income", taxpayer's total income for the purposes of the circuit breaker income tax credit, as defined in paragraph (1) of subsection (k) of section 6 of chapter 62.

(b) In any city or town that accepts the provisions of this section, with respect to each qualifying parcel of real property classified as Class one, residential there shall be an exemption from the property tax equal to the total amount of tax that would otherwise be assessed without this exemption less the sum of: (i) 10 per cent of income, or such other percentage of income as determined under subsection (d); and (ii) the circuit breaker income tax credit under subsection (k) of section 6 of chapter 62 the applicant was eligible to receive in the year prior to the application being filed. In no event shall property taxes be reduced by more than 50 per cent by this exemption.

(c) The board of assessors may deny an application for an exemption pursuant to this section if they find the applicant has excessive assets that place them outside of the intended recipients of the senior exemption created by this section. Real property shall qualify for the exemption under subsection (b) if all of the following criteria are met:

Senior Citizen Circuit Breaker Tax Credit

(1) the real property is owned and occupied by a person whose prior year's income did not exceed the income limit established in clause (i) of paragraph (3) of subsection (k) of section 6 of chapter 62 and adjusted pursuant to paragraph (4) of subsection (k) of section 6 of chapter 62 for the prior year, whichever such income limit applies to the individual's filing status;

(2) the real property is owned by a single applicant age 65 or older at the close of the previous year or jointly by persons either of whom is age 65 or above at the close of the previous year and if the joint applicant is 60 years of age or older;

(3) the real property is owned and occupied by the applicant or joint applicants as their domicile;

(4) the applicant or at least 1 of the joint applicants has been domiciled in the city or town for at least 10 consecutive years before filing an application for the exemption;

(5) the maximum assessed value of the domicile does not exceed (i) the prior year's average assessed value of a single-family residence for the city or town plus 10 per cent; and (ii) the valuation limit established in clause (ii) of paragraph (3) of subsection (k) of section 6 of chapter 62 and adjusted pursuant to paragraph (4) of said subsection (k) of said section 6 of said chapter 62 for the prior year; and

(6) the board of assessors has approved the application.

(d) The exemption under subsection (b) shall be in addition to any other exemption allowable under the General Laws; provided, however that there shall be a dollar cap on all the exemptions granted pursuant to this section equal to .5 per cent of the fiscal year's total residential property tax levy for the city or town, including the levy for any regional high school if not included in the city's or town's tax levy at some subsequent date with the total exemption amount granted by this section allocated proportionally within the tax levy on all residential taxpayers. After the first year of such exemption, the total cap on the exemptions granted pursuant to this section shall be set annually by the board of selectmen, in the case of a town, the city manager, in the case of a city under a Plan E form of government, or the city council, in the case of all other cities, within a range of .5 to 1 per cent of the residential property tax levy for the city or town, including the levy for any regional high school. In the event that benefits to the applicants may be limited because the percentage established annually by the selectmen, city manager or city council would otherwise be exceeded, the benefits shall be allocated by raising the income percentage as required in subsection (b) as necessary to not exceed the cap. In the event the cap exceeds the need for the exemption, the total cap on the exemptions granted by this section shall be reduced to meet the need.

(e) A person who seeks to qualify for the exemption under subsection (b) shall, before the deadline established by the board of assessors, file an application, on a form to be adopted by the board of assessors, with the supporting documentation of the applicant's income and assets as described in the application. The application shall be filed each year for which the applicant seeks the exemption.

(f) No exemption shall be granted under this section until the department of revenue certifies a residential tax rate for the applicable tax year where the total exemption amount is raised by a burden shift within the residential tax levy.

(g) The exemption under this section shall expire every three years after its acceptance or re-acceptance; provided, however, that a city or town which has accepted this section may re-accept this section for additional 3-year intervals by a vote of the legislative body of said city or town.

Promotion of Disability Employment Tax Credit

SECTION 2. The executive office of health and human services, in coordination with the Massachusetts rehabilitation commission, established pursuant to section 76 of chapter 6 of the General Laws, shall publicly promote the disability employment tax credit pursuant to 101 CMR 28 to provide information to employers in the Commonwealth. The executive office, in coordination with the Massachusetts rehabilitation commission, shall report all efforts related to the public promotion of the disability employment tax credit to the joint committee on labor and workforce development not later than December 31, 2023

SECTION 3. Subparagraph (9) of paragraph (a) of part B of section 3 of chapter 62 of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by striking out, in line 109, the figure “3,000” and inserting in place thereof the following figure:- 5,000.

SECTION 4. Paragraph (1) of subsection (a) of section 5 of said chapter 62, as so appearing, is hereby amended by striking out, in line 6, the words “eight thousand dollars” and inserting in place thereof the following figure:- $12,550.

SECTION 5. Said subsection (a) of said section 5 of said chapter 62, as so appearing, is hereby amended by striking out paragraph (2) and inserting in place thereof the following 2 paragraphs:-

(2) in the case of a husband and wife filing a joint return, $25,100, or

(3) in the case of a person filing as head of household, $18,800.

SECTION 6. Paragraph (2) of subsection (k) of section 6 of said chapter 62, as so appearing, is hereby amended by striking out, in line 447, the figure “750” and inserting in place thereof the following figure:- 1,755.

SECTION 7. Subsection (x) of said section 6 of said chapter 62, as most recently amended by section 31 of chapter 102 of the acts of 2021, is hereby further amended by striking out the figure “240” and inserting in place thereof the following figure:- 480.

SECTION 8. Said subsection (x) of said section 6 of said chapter 62, as so amended, is hereby further amended by striking out the figure “480” and inserting in place thereof the following figure:- 960.

SECTION 9. Subsection (y) of said section 6 of said chapter 62, as most recently amended by section 33 of said chapter 102, is hereby further amended by striking out the figure “180” and inserting in place thereof the following figure:- 360.

SECTION 10. Said subsection (y) of said section 6 of said chapter 62, as so amended, is hereby further amended by striking out the figure “360” and inserting in place thereof the following figure:- 720.

SECTION 11. Subsection (a) of section 6 of chapter 62C of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by striking out, each time it appears, in line 4, lines 6 to 7 and line 17, the words “eight thousand dollars” and inserting in place thereof, in each instance, the following words:- the thresholds specified in subsection (a) of section five of chapter sixty-two.

SECTION 12. Section 2A of chapter 65C of the General Laws, as so appearing, is hereby amended by striking out subsection (a) and inserting in place the following subsection:-

(a) A tax is hereby imposed upon the transfer of the estate of each person dying on or after January 1, 1997 who, at the time of death, was a resident of the commonwealth. The amount of the tax shall be equal to the credit for state death taxes that would have been allowable to a decedent’s estate as computed under Code section 2011, as in effect on December 31, 2000, hereinafter referred to as the “credit”. In the event that the federal gross estate of a person includes real or tangible personal property located outside of Massachusetts at the time of death, the tax shall be reduced by an amount equal to the proportion of such allowable credit as the value of said real or tangible personal property located outside of Massachusetts bears to the value of the entire federal gross estate wherever situated, as determined under Code section 2011, as in effect on December 31, 2000.

SECTION 13. Said section 2A of said chapter 65C, as so appearing, is hereby further amended by adding the following subsection:-

(f) Effective for the estates of decedents dying on or after July 1, 2022, for purposes of computing the tax imposed by subsections (a) and (b), the credit shall be determined based on the value of the federal taxable estate after such estate is reduced by $2,000,000. Estates of decedents dying on or after July 1, 2022 are not required to pay any tax under subsections (a) and (b) if the value of the federal taxable estate is $2,000,000 or less. For purposes of this subsection, the federal taxable estate is the federal gross estate less any Qualified Conservation Exclusion elected under Code section 2031(c), as in effect on December 31, 2000, and further reduced by the deductions allowable by the Code, as in effect on December 31, 2000.

Family Caregiver Tax Credit

SECTION 14. Section 6 of chapter 62 of the General Laws, as appearing in the 2018 Official Edition, is hereby amended by inserting after subsection (v) the following new subsection:-

(w)(1) As used in this subsection, the following words shall have the following meanings unless the context clearly requires otherwise:

"Activities of daily living", Everyday functions and activities, which individuals usually do without help including, but not limited to, bathing, continence, dressing, eating, toileting and transferring.

"Eligible family member", an individual who (1) is at least eighteen years of age during a taxable year, (2) requires assistance with at least one activity of daily living, and (3) qualifies as a dependent, spouse, parent or other relation by blood or marriage, including an in-law, grandparent, grandchild, step-parent, aunt, uncle, niece, or nephew of the family caregiver.

“Evaluation year”, the year in which an evaluation of the tax credit is to be complete. The evaluation year shall be every 5 years after the effective date of this subsection.

"Family Caregiver", an individual who is a resident taxpayer for the taxable year and had eligible expenditures, as described in paragraph (3) of this subsection, with respect to 1 or more eligible family members during the taxable year. In the case of a joint return, the term includes the individual and the individual's spouse. The family caregiver claiming the credit must have a Massachusetts adjusted gross income of less than $75,000 for an individual and $150,000 for a couple and incur uncompensated expenses directly related to the care of an eligible care recipient.

(2) A taxpayer who is a family caregiver is eligible to receive for a taxable year is equal to a refundable credit against the taxes imposed by this chapter. The credit shall be equal to 100 per cent of the eligible expenditures incurred by the taxpayer during the taxable year, with a maximum allowable credit of $1,500.

(3) Expenditures eligible to be claimed for the tax credit include the costs associated with:

(i) the improvement or alteration to the family caregiver's primary residence to permit eligible family member to remain mobile, safe, and independent;

(ii) the purchase or lease of equipment that is necessary to assist an eligible family member in carrying out one or more activities of daily living; and

(iii) other goods, services, or supports that assist the family caregiver in providing care to an eligible family member, such as expenditures related to hiring a home care aide or personal care attendant, respite care, adult day health, transportation, legal and financial services and assistive technology.

(4) No taxpayer shall be entitled to claim a tax credit under this subsection for the same eligible expenditures claimed by another taxpayer. The total amount of tax credits claimed by family caregivers shall not exceed $1,500 for the same eligible family member. If two or more family caregivers claim tax credits for the same eligible family member, the total of which exceeds $1,500, the total amount of the credit allowed shall be allocated in amounts proportionate to each eligible taxpayer’s share of the total amount of the eligible expenditures for the eligible family member.

(5) A taxpayer may not claim a tax credit under this section for expenses incurred in carrying out general household maintenance activities, including painting, plumbing, electrical repairs or exterior maintenance, and must be directly related to assisting the family caregiver in providing care to an eligible family member.

(6) The commissioner of the department of revenue shall promulgate rules and regulations relative to the administration and enforcement of this subsection.

(7) The commissioner shall annually, not later than September 1, file a report with the house and senate committees on ways and means, the chairs of the joint committee on revenue and the chairs of the joint committee on elder affairs identifying, by community, the total amount

of tax credits claimed and the total number of tax filers who received the tax credit for the preceding fiscal year.

(8) On or before May 31 of the year before the evaluation year, there shall be established a committee entitled the Caregiver Tax Credit Evaluation Committee to conduct a review of the tax credit.

The committee shall be comprised of 7 members: 2 of whom shall be appointed by the secretary of the executive office of health and human services; 2 of whom shall be appointed by the secretary of the executive office of elder affairs; 1 of whom shall be appointed by the secretary of the executive office for administration and finance; 1 of whom shall be appointed by the president of the senate; and 1 of whom shall be appointed by the speaker of the house of representatives.

The committee shall: (1) examine the purpose for which the tax credit was established; (2) determine whether the original intent of the tax credit is still appropriate; (3) examine whether the tax credit is meeting its objectives; (4) examine whether the purposes of the tax credit could be more efficiently and effectively carried out through alternative methods; and (5) calculate the costs of providing the tax credit, including the administrative cost and lost revenues to the Commonwealth.

The committee shall file a report of its findings with the senate and house clerks and with the governor, which shall include a recommendation as to whether the tax credit should be continued, with or without changes, or be terminated. The report shall be accompanied by any legislation that is needed to accomplish the recommendations of the report. The report shall be filed no later than December 31 of the evaluation year.

Effective Dates

SECTION 15. Sections 10 and 11 shall take effect for the estates of decedents dying on or after July 1, 2024.

SECTION 16. Except as otherwise specified, this act shall take effect for taxable years beginning on or after January 1, 2024