

HOUSE No. 2818

The Commonwealth of Massachusetts

PRESENTED BY:

Kenneth I. Gordon

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:
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>	<i>1/20/2023</i>

HOUSE No. 2818

By Representative Gordon of Bedford, a petition (accompanied by bill, House, No. 2818) of
Kenneth I. Gordon relative to senior property tax deferrals. Revenue.

The Commonwealth of Massachusetts

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

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. To provide for a senior tax deferral program, the sum set forth in section 2,
2 for the purposes and subject to the conditions specified in this act, are hereby made available,
3 subject to the laws regulating the disbursement of public funds.

4 SECTION 2. MASSACHUSETTS DEPARTMENT OF REVENUE

5 XXXX-XXXX. For the Senior Property Tax Deferral Revolving Fund established
6 pursuant to section 2LLLLL of chapter 29 of the General Laws.....\$450,000,000

7 SECTION 3. Chapter 29 of the General Laws is hereby amended by inserting after
8 section 2KKKKK, inserted by section 1 of chapter 254 of the acts of 2020, the following
9 section:-

10 Section 2LLLLL. (a) There shall be established and set up on the books of the
11 commonwealth a separate fund to be known as the Senior Property Tax Deferral Revolving
12 Fund. The commissioner of the department of revenue shall be the fund's trustee and shall

13 expend the fund, without further appropriation, for the purposes of financial assistance in the
14 form of loans to cities and towns in amounts equal to 100 per cent of deferred real property taxes
15 pursuant to clause Forty-First A of section 5 of chapter 59.

16 Upon receipt of the taxes and interest due pursuant to said clause Forty-First A of said
17 section 5 of said chapter 59 following the sale or transfer of real property for which taxes have
18 been deferred or the demise of the owner of such real property and subsequent demise of the
19 surviving spouse, if applicable, any city or town which has received a loan from the department
20 pursuant to this section shall deposit the funds into the Senior Property Tax Deferral Fund.

21 (b) The commissioner shall annually report on expenditures from the Senior Property Tax
22 Deferral Revolving Fund. The report shall include, but not be limited to: (1) the revenue credited
23 to the fund; (2) the amount of fund expenditures attributable to the administrative costs of the
24 fund; and (3) a list of the funds loaned to and repaid by each municipality. The report shall be
25 provided to the chairs of the joint committee on municipalities and regional government and the
26 clerks of the house of representatives and the senate.

27 SECTION 4. Section 5 of chapter 59 of the General Laws, as so appearing, is hereby
28 amended by striking out clause forty-first A and inserting in place thereof the following clause:-
29 Forty-first A, Real property, to an amount determined as hereinafter provided, (i) of a person 65
30 years of age or over and occupied by them as their domicile, (ii) of a person who owns the same
31 jointly with their spouse, either of whom is 65 years of age or over, and occupied as their
32 domicile, or (iii) of a person 65 years of age or over who owns the same jointly or as a tenant in
33 common with a person not their spouse and occupied by them as their domicile; provided, that
34 such person:

(1) has so owned and occupied as their domicile such real property or other real property in the commonwealth for 5 years; or

(2) is a surviving spouse who inherits such real property and has occupied such real property or other real property in the commonwealth as their domicile for 5 years and who otherwise qualifies pursuant to this clause.

In determining the total period of ownership of an applicant for exemption pursuant to this clause, the time during which the same property was owned by a spouse individually shall be added to the period during which such property was owned by said spouses jointly.

The board of assessors for each municipality shall include on every property tax bill a check-box where homeowners may certify their eligibility for the deferral of taxation on real property and opt-in to deferral of taxes on said real property; 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 a rate to be calculated by the Secretary of Administration and Finance on an annual basis, which shall include the commonwealth's borrowing and administrative costs, 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 60 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 pursuant to 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 pursuant to 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 60 per cent requirement of subparagraph (2);

(4) that upon receipt of the taxes due, plus interest, the municipality shall deposit the funds into the Senior Property Tax Deferral Fund established pursuant to section 2LLLLL of chapter 59;

(5) 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

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

81 In the case of each tax deferral and recovery agreement entered into between the board of
82 assessors and the owner or owners of such real property, said board of assessors shall deliver a
83 copy of said agreement and a copy of the property tax bill for the fiscal year which is being
84 deferred to the department of revenue. Upon receipt of said agreement and said property tax bill,
85 the department of revenue shall send to the city or town an amount equal to the deferred taxes
86 and record with the registry of deeds of the county or district in which the city or town is situated
87 a statement of their action which shall constitute a lien upon the land covered by such agreement
88 for such taxes as have been assessed pursuant to the provisions of this chapter, plus interest as
89 provided herein. Notwithstanding any special or general laws to the contrary, a lien filed
90 pursuant to this section shall continue until the deferred taxes, plus interest, have been recovered
91 pursuant to this clause. A lien filed pursuant to this section shall be subsequent to any liens
92 securing a reverse mortgage, excepting shared appreciation instruments. The statement shall
93 name the owner or owners and shall include a description of the land adequate for identification.
94 Unless such a statement is recorded the lien shall not be effective with respect to a bona fide
95 purchaser or other transferee without actual knowledge of such lien. The filing fee for such
96 statement shall be paid by the city or town and shall be added to and become a part of the taxes
97 due.

98 In addition to the remedies provided by this clause, the recorded statement of the
99 assessors provided for in this clause shall have the same force and effect as a valid taking for
100 nonpayment of taxes pursuant to 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 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 pursuant to this clause may be made pursuant to section 52 of chapter 60; (3) no petition pursuant to section 65 of chapter 60 to foreclose the lien may be filed before the expiration of 6 months from the conveyance of the property or the death of the person whose taxes have been deferred.

SECTION 5. To meet the expenditures necessary in carrying out this act, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time but not exceeding, in the aggregate, \$450,000,000. All such bonds issued by the commonwealth shall be designated on their face, Senior Property Tax Deferral Revolving Loan Fund Act, and shall be issued for a maximum term of years, not exceeding 30 years, as the governor may recommend to the general court pursuant to section 3 of Article LXII of the Amendments to the Constitution. The bonds shall be payable not later than June 30, 2056 . All interest and payments on account of principal on these obligations shall be payable from the General Fund. Bonds and interest thereon issued under this section shall, notwithstanding any general or special law to the contrary, be general obligations of the commonwealth.