

SENATE No. 2397

The Commonwealth of Massachusetts

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

SENATE, June 8, 2023.

The committee on Senate Ways and Means to whom was referred the House Bill to improve the Commonwealth's competitiveness, affordability, and equity (House, No. 3770); reports, recommending that the same ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2397. (Operating Resources in FY24: \$586,000,000.00)

For the committee,
Michael J. Rodrigues

The Commonwealth of Massachusetts

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

1 SECTION 1. Chapter 59 of the General Laws is hereby amended by inserting after
2 section 5N the following section:-

3 Section 5O. In any city or town that accepts this section, the board of selectmen of the
4 town, the town council of a municipality having a town council form of government or the
5 mayor of a city, with the approval of the city council, may establish a property tax exemption for
6 real property classified as Class One, residential in the city or town that is affordable for and
7 rented and occupied by persons whose household income is not more than 130 per cent of the
8 area median income. The exemption shall be for an amount determined by each city or town;
9 provided, however, that the amount shall be not more than the tax otherwise due on the parcel
10 based on the full and fair assessed value multiplied by the square footage of the housing units
11 rented and occupied by persons whose household income is not more than 130 per cent of the
12 area median income divided by the total square footage of a structure located on the parcel.

13 Assessment of property seeking an exemption under this section, if by an income approach to
14 value, shall assume fair market rent for all units. To be eligible for the exemption, the housing
15 unit shall be leased to persons whose household income is not more than 130 per cent of the area
16 median income for the entire fiscal year for which the exemption is sought. The property owner
17 seeking the exemption shall submit to the city or town any documentation the city or town deems

18 necessary, including, but not limited to, a signed lease, to confirm the eligibility of the property
19 for the exemption under this section.

20 A municipality may adopt ordinances or by-laws to implement this section in a way that
21 is consistent with the intent of this section.

22 SECTION 2. Section 3 of chapter 62 of the General Laws is hereby amended by striking
23 out, in line 109, as appearing in the 2020 Official Edition, the figure “\$3,000” and inserting in
24 place thereof the following figure:- \$4,000.

25 SECTION 3. Said section 3 of said chapter 62 is hereby further amended by inserting
26 after the word “boat”, in line 160, as so appearing, the following words:- , or for regional transit
27 authority passes, or for bikeshare memberships or for bicycles, including electric bikes, or
28 bicycle improvements, repair and storage.

29 SECTION 4. Paragraph (a) of part B of said section 3 of said chapter 62, as amended by
30 section 24 of chapter 24 of the acts of 2021, is hereby further amended by adding the following
31 subparagraph:-

32 (20) An amount equal to the amount of student loan payment assistance received by an
33 individual from their employer during the taxable year not already excluded under section 127 of
34 the Code. For the purposes of this subparagraph, “student loan payment assistance” shall mean
35 the payment of principal or interest on a qualified education loan, as defined in section 221 of the
36 Code.

37 SECTION 5. Section 6 of said chapter 62 is hereby amended by striking out, in line 75,
38 as appearing in the 2020 Official Edition, the words “one thousand five hundred dollars” and
39 inserting in place thereof the following figure:- \$3,000.

40 SECTION 6. Said section 6 of said chapter 62 is hereby further amended by striking out,
41 in line 86, as so appearing, the words “five hundred dollars” and inserting in place thereof the
42 following figure:- \$1,000.

43 SECTION 7. Said section 6 of said chapter 62 is hereby further amended by striking out,
44 in lines 245 and 250, as so appearing, the figure “30” and inserting in place thereof, in each
45 instance, the following figure:- 40.

46 SECTION 8. Said section 6 of said chapter 62 is hereby further amended by striking out,
47 in line 269, as so appearing, the figure “40” and inserting in place thereof the following figure:-
48 60.

49 SECTION 9. Said section 6 of said chapter 62 is hereby further amended by striking out,
50 in line 273, as so appearing, the figure “\$15,000” and inserting in place thereof the following
51 figure:- \$40,000.

52 SECTION 10. Said section 6 of said chapter 62 is hereby further amended by striking
53 out, in line 277, as so appearing, the figure “\$1,500” and inserting in place thereof the following
54 figure:- \$4,000.

55 SECTION 11. Said section 6 of said chapter 62 is hereby further amended by striking
56 out, in line 279, as so appearing, the figure “\$6,000” and inserting in place thereof the following
57 figure:- \$18,000.

58 SECTION 12. Said section 6 of said chapter 62 is hereby further amended by striking
59 out, in line 290, as so appearing, the figure “2023” and inserting in place thereof the following
60 figure:- 2028.

61 SECTION 13. Said section 6 of said chapter 62 is hereby further amended by striking
62 out, in line 296, as so appearing, the figure “2024” and inserting in place thereof the following
63 figure:- 2029.

64 SECTION 14. Paragraph (4) of subsection (j) of said section 6 of said chapter 62, as so
65 appearing, is hereby amended by adding the following sentence:- For the purposes of the
66 Brownfields Redevelopment Fund, “state financial assistance” shall mean the amount of any
67 grant or principal amount of any loan, but shall not include any loan principal repaid as of the
68 date the credit application is filed with the commissioner. Net response and removal costs shall
69 not include any reimbursement that is received, or will be received, by the applicant, or any
70 amounts paid on behalf of the applicant from any source for these costs.

71 SECTION 15. Said section 6 of said chapter 62 is hereby further amended by striking
72 out, in line 447, as so appearing, the figure “\$750” and inserting in place thereof the following
73 figure:- \$1,500.

74 SECTION 16. Said section 6 of said chapter 62 is hereby further amended by striking
75 out, in line 732, as so appearing, the figure “\$6,000,000” and inserting in place thereof the
76 following figure:- \$8,000,000.

77 SECTION 17. Subsection (q) of said section 6 of said chapter 62 is hereby amended by
78 striking out paragraph (5), as so appearing, and inserting in place thereof the following
79 paragraph:-

80 (5) EOHLC may authorize not more than \$30,000,000 in credits annually under this
81 subsection and section 38BB of chapter 63. EOHLC may authorize annually any credits under
82 this subsection or said section 38BB of said chapter 63 returned to EOHLC by a certified
83 housing development project. The total amount of credits authorized during a year shall include:
84 (1) credits granted during the year pursuant to this subsection or said section 38BB of said
85 chapter 63; and (2) carry forwards of credits from prior years pursuant to this subsection or said
86 section 38BB of said chapter 63, to the extent that such credit carry forwards are estimated by the
87 commissioner to offset tax liabilities during the year. Any portion of the \$30,000,000 annual cap
88 not awarded by EOHLC in a calendar year shall not be applied to awards in a subsequent year.
89 EOHLC shall provide the commissioner of revenue with any documentation that the
90 commissioner deems necessary to confirm compliance with the annual cap and the commissioner
91 shall provide a report confirming compliance with the annual cap to the secretary of
92 administration and finance and the secretary of housing and economic development.

93 SECTION 18. Said section 6 of said chapter 62 is hereby further amended by inserting
94 after the figure “31-33”, in line 1158, as so appearing, the following words:- and other expansion
95 industries the secretary of labor and workforce development identifies as critical to a regional
96 labor market economy.

97 SECTION 19. Said section 6 of said chapter 62 is hereby further amended by striking out
98 subsections (x) and (y), as most recently amended by sections 30 to 33, inclusive, of chapter 102
99 of the acts of 2021, and inserting in place thereof the following subsection:-

100 (x) For the purposes of this subsection, “maintains a household” shall have the same
101 meaning as in section 21 of the Code. With respect to a taxpayer who is a non-resident for part of

102 the taxable year, the credit shall be further limited to the amount of allowable credit multiplied
103 by a fraction, the numerator of which shall be the number of days in the taxable year the person
104 resided in the commonwealth and the denominator of which shall be the number of days in the
105 taxable year. A taxpayer who maintains a household that includes as a member at least 1
106 individual: (i) under the age of 13 who qualifies for exemption as a dependent under section 151
107 of the Code; (ii) who is a qualifying individual as defined in said section 21 of the Code; or (iii)
108 at least 1 individual: (A) who is not less than 65 years of age or who is disabled; and (B) who
109 qualifies as a dependent under section 152 of the Code, shall be allowed a credit in an amount
110 equal to \$310 for each such dependent or qualifying individual with respect to the taxpayer;
111 provided, however, that if the taxpayer is married at the close of the taxable year, the credit
112 provided in this subsection shall be allowed if: (a) the taxpayer and the taxpayer's spouse file a
113 joint return for the taxable year; or (b) the taxpayer qualifies as a head of household under
114 section 2(b) of the Code. A person who is a non-resident for the entire taxable year shall not
115 qualify for the credit. If the amount of the credit allowed under this subsection exceeds the
116 taxpayer's tax liability, the commissioner shall treat the excess as an overpayment and shall pay
117 the taxpayer the entire amount of the excess without interest.

118 SECTION 20. Section 6I of said chapter 62 is hereby amended by striking out, in line 70,
119 as so appearing, the figure "\$40,000,000" and inserting in place thereof the following figure:-
120 \$60,000,000.

121 SECTION 21. Section 5 of chapter 62F of the General Laws, as so appearing, is hereby
122 amended by adding the following subsection:-

123 (e) Monthly, the comptroller shall submit a report to the clerks of the senate and the
124 house of representatives, the joint committee on revenue and the senate and house committees on
125 ways and means on net state revenue for the current fiscal year, projections for net state tax
126 revenue for the remainder of said fiscal year and an estimate of if, and when, net state revenue
127 may exceed allowable state tax revenue for said fiscal year.

128 SECTION 22. Section 38Q of chapter 63 of the General Laws, as so appearing, is hereby
129 amended by striking out, in line 3, the figure “2023” and inserting in place thereof the following
130 figure:- 2028.

131 SECTION 23. Said section 38Q of said chapter 63, as so appearing, is hereby further
132 amended by striking out, in line 9, the figure “2024” and inserting in place thereof the following
133 figure:- 2029.

134 SECTION 24. Subsection (d) of said section 38Q of said chapter 63, as so appearing, is
135 hereby amended by adding the following sentence:- For the purpose of the Brownfields
136 Redevelopment Fund, “state financial assistance” shall mean the amount of any grant or
137 principal amount of any loan, but shall not include any loan principal repaid as of the date the
138 credit application is filed with the commissioner. Net response and removal costs shall not
139 include any reimbursement that is received, or will be received, by the applicant, or any amounts
140 paid on behalf of the applicant from any source for these costs.

141 SECTION 25. Section 38Z of said chapter 63, as so appearing, is hereby amended by
142 striking out, in line 28, the figure “\$6,000,000” and inserting in place thereof the following
143 figure:- \$8,000,000.

144 SECTION 26. Section 38BB of said chapter 63 is hereby amended by striking out
145 subdivision (5), as so appearing, and inserting in place thereof the following subdivision:-

146 (5) EOHLC may authorize up to \$30,000,000 in credits annually under this section and
147 subsection (q) of section 6 of chapter 62. EOHLC may authorize annually any credits under this
148 section or said subsection (q) of said section 6 of said chapter 62 returned to EOHLC by a
149 certified housing development project. The total amount of credits authorized during a year shall
150 include: (1) credits granted during the year under this section or said subsection (q) of section 6
151 of chapter 62; and (2) carry forwards of credits from prior years under this section or said
152 subsection (q) of section 6 of chapter 62, to the extent that such credit carry forwards are
153 estimated by the commissioner of revenue to offset tax liabilities during the year. Any portion of
154 the \$30,000,000 annual cap not awarded by EOHLC in a calendar year shall not be applied to
155 awards in a subsequent year. EOHLC shall provide the commissioner of revenue with any
156 documentation that the commissioner deems necessary to confirm compliance with the annual
157 cap and the commissioner shall provide a report confirming compliance with the annual cap to
158 the secretary of administration and finance and the secretary of housing and economic
159 development.

160 SECTION 27. Section 38HH of said chapter 63, as so appearing, is hereby amended by
161 inserting after the figure “31-33”, in line 18, the following words:- or other expansion industries
162 the secretary of labor and workforce development identifies as critical to a regional labor market
163 economy.

164 SECTION 28. Section 2A of chapter 65C of the General Laws, as so appearing, is hereby
165 amended by striking out subsection (a) and inserting in place the following subsection:-

166 (a) A tax is hereby imposed upon the transfer of the estate of each person dying on or
167 after January 1, 1997 who, at the time of death, was a resident of the commonwealth. The
168 amount of the tax shall be equal to the credit for state death taxes that would have been allowable
169 to a decedent's estate as computed under section 2011 of the Code, as in effect on December 31,
170 2000, hereinafter referred to as the "credit". If the federal gross estate of a person includes real or
171 tangible personal property located outside of the commonwealth at the time of death, the tax
172 shall be reduced by an amount equal to the proportion of such allowable credit as the value of
173 such real or tangible personal property located outside of the commonwealth bears to the value
174 of the entire federal gross estate wherever situated, as determined under section 2011 of the
175 Code, as in effect on December 31, 2000.

176 SECTION 29. Said section 2A of said chapter 65C, as so appearing, is hereby further
177 amended by adding the following 2 subsections:-

178 (f) For the estates of decedents dying on or after January 1, 2023, a credit shall be
179 allowed against the tax imposed by subsections (a) and (b) equal to the amount of such tax;
180 provided, however, that the credit shall not exceed \$99,600.

181 (g) The estates of decedents dying on or after January 1, 2023 shall not be required to pay
182 any tax under subsections (a) and (b) if the value of the federal taxable estate is not more than
183 \$2,000,000.

184 SECTION 30. Section 21 of chapter 138 of the General Laws, as so appearing, is hereby
185 amended by striking out, in lines 20 and 21, the words "six per cent of alcohol by weight" and
186 inserting in place thereof the following words:- 8½ per cent of alcohol by volume.

187 SECTION 31. Said section 21 of said chapter 138, as so appearing, is hereby further
188 amended by striking out, in line 25, the word “six” and inserting in place thereof the following
189 figure:- 8 ½.

190 SECTION 32. Sections 46, 48, 61, 63 and 124A of chapter 287 of the acts of 2014 are
191 hereby repealed.

192 SECTION 33. Said chapter 358 is hereby further amended by striking out section 59.

193 SECTION 34. Section 112 of chapter 358 of the acts of 2020 is hereby amended by
194 striking the words “Sections 59 and” and inserting in place thereof the following word:- Section.

195 SECTION 35. Notwithstanding any general or special law to the contrary, in calendar
196 year 2023, the executive office of housing and livable communities may authorize not more than
197 \$57,000,000 in credits under subsection (q) of section 6 of chapter 62 of the General Laws and
198 section 38BB of chapter 63 of the General Laws. Any portion of this amount that is not
199 authorized in calendar year 2023 shall be added to the amount the executive office of housing
200 and livable communities may authorize in subsequent years under said subsection (q) of said
201 section (6) of said chapter 62 and said section 38BB of said chapter 63.

202 SECTION 36. The executive office for administration and finance shall conduct a study
203 on the feasibility of creating a program of advance quarterly payments to taxpayers for credits
204 that the department of revenue estimates would be treated as allowed for a taxpayer under
205 subsection (x) of section 6 of chapter 62 of the General Laws for a taxable year. The study shall
206 include, but not be limited to: (i) an operational plan for how the department of revenue could
207 establish and maintain such a program; (ii) a description of the processes by which the
208 department could collect information from taxpayers and from other agencies to maximize the

209 accuracy of the department's estimate of the amount that would be treated as allowed for a
210 taxpayer under said subsection (x) of said section 6 of said chapter 62 for a taxable year; (iii) a
211 description of the options for maximizing participation in such a program by taxpayers who are
212 eligible for credits under said subsection (x) of said section 6 of said chapter 62; (iv) an analysis
213 of any other credits against tax included in said section 6 of said chapter 62 that the department
214 could include in an advance quarterly payment program; (v) potential challenges to the
215 establishment of such a program and strategies by which the department could address those
216 challenges; (vi) any legislative recommendations to support the establishment of such a program,
217 if applicable; and (vii) an estimate of the funds that would be necessary for the department to
218 establish and maintain such a program, if applicable.

219 The executive office shall submit a report of its findings to the house and senate
220 committees on ways and means not later than January 1, 2024.

221 SECTION 37. Notwithstanding any general or special law to the contrary, the department
222 of revenue shall analyze the potential impact of implementing an additional, elective entity-level
223 tax of up to 4 per cent on a portion of qualified taxable income in the commonwealth of eligible
224 pass-through entities defined in section 1 of chapter 63D of the General Laws, coupled with a
225 refundable tax credit. The analysis shall consider: (i) the impacts on the commonwealth's
226 taxpayers and tax revenue; (ii) the feasibility of administering the additional elective tax; (iii) the
227 feasibility of determining the portion of qualified income taxable in the commonwealth pursuant
228 to this section based on: (A) an annual threshold tied to the threshold under Article XLIV of the
229 Amendments of the Constitution; or (B) the consent of each qualified member to have a portion
230 of the member's share of qualified income taxable in the commonwealth subject to the additional

231 tax; (iv) passthrough entity tax regimes in other states; and (v) the impact of any tax on qualified
232 members with taxable income below the annual threshold under said Article XLIV.

233 The department of revenue shall submit a report of its findings to the clerks of the senate
234 and house of representatives, the joint committee on revenue and the senate and house
235 committees on ways and means not later than October 1, 2023.

236 SECTION 38. Sections 2, 7 and 15 shall apply to tax years beginning on or after January
237 1, 2023.

238 SECTION 39. Sections 17 and 26 shall take effect as of January 1, 2024.

239 SECTION 40. Sections 28 and 29 shall take effect for the estates of decedents dying on
240 or after January 1, 2023.

241 SECTION 41. Except as otherwise specified, this act shall take effect for taxable years
242 beginning on or after January 1, 2023.