SENATE . . . . . No. 2406

Senate, June 15, 2023 -- Text of the Senate amendment to the House Bill to improve the Commonwealth's competitiveness, affordability, and equity (House, No. 3770) (being the text of Senate, No. 2397, printed as amended)

The Commonwealth of Massachusetts

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

SECTION 1. Section 5K of chapter 59 of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by striking out, in lines 14 and 39, the figure "$1,500" and inserting in place thereof, in each instance, the following figure:- $2,000.

SECTION 2. Said chapter 59 is hereby further amended by inserting after section 5N the following section:-

Section 5O. (a) In any city or town that accepts this section, the board of selectmen of the town, the town council of a municipality having a town council form of government or the mayor of a city, with the approval of the city council, may establish a property tax exemption for real property classified as Class One, residential in the city or town. To qualify for the exemption, the property shall be: (i) rented at an affordable housing rate, as determined by the city or town and in accordance with the United States Department of Housing and Urban Development guidance and regulations; (ii) rented on a yearly basis; and (iii) occupied year-round by a person or persons whose household income does not exceed an amount to be set by the city or town; provided, however, that said income shall not be more than 200 per cent of the area median income. The property tax exemption shall be for an amount determined by the city

or town; provided, however, that the amount shall not be more than the tax otherwise due on the parcel based on the full and fair assessed value multiplied by the square footage of the housing units rented and occupied by a person or persons whose household income is not more than the income limit set pursuant to clause (iii), divided by the total square footage of a structure located on the parcel. Assessment of property seeking an exemption under this section, if by an income approach to value, shall assume fair market rent for all units. The property owner seeking the exemption shall submit to the city or town any documentation the city or town deems necessary, including, but not limited to, a signed lease and proof of the occupying person or persons' household income, to confirm the eligibility of the property for the exemption under this section.

(b) A municipality may adopt ordinances or by-laws to implement this section.

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

SECTION 4. Said section 3 of said chapter 62 is hereby further amended by striking out, in lines 158 and 159, as so appearing, the words "weekly or monthly transit commuter passes" and inserting in place thereof the following words:- fares.

SECTION 5. Said section 3 of said chapter 62 is hereby further amended by inserting after the word "boat", in line 160, as so appearing, the following words:- , or for regional transit authority fares, or for bikeshare memberships, or for bicycles, including electric bikes, or for bicycle improvements, repair and storage, or for any fare for a commuter boat owned, operated or contracted by a municipality, public or quasi-public entity, agency or authority.

SECTION 6. Paragraph (a) of part B of said section 3 of said chapter 62, as amended by section 24 of chapter 24 of the acts of 2021, is hereby further amended by adding the following subparagraph:-

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

SECTION 7. Section 6 of said chapter 62 is hereby amended by striking out, in line 75, as appearing in the 2020 Official Edition, the words "one thousand five hundred dollars" and inserting in place thereof the following figure:- $3,000.

SECTION 8. Said section 6 of said chapter 62 is hereby further amended by striking out, in line 86, as so appearing, the words "five hundred dollars" and inserting in place thereof the following figure:- $1,000.

SECTION 9. Said section 6 of said chapter 62 is hereby further amended by striking out, in lines 245 and 250, as so appearing, the figure "30" and inserting in place thereof, in each instance, the following figure:- 40.

SECTION 10. Said section 6 of said chapter 62 is hereby further amended by striking out, in line 269, as so appearing, the figure "40" and inserting in place thereof the following figure:- 60.

SECTION 11. Said section 6 of said chapter 62 is hereby further amended by striking out, in lines 271 and 272, as so appearing, the words “as promulgated by the department of environmental protection in 1995” and inserting in place thereof the following words:- of the State Environmental Code.

SECTION 12. Said section 6 of said chapter 62 is hereby further amended by striking out, in line 273, as so appearing, the figure “$15,000” and inserting in place thereof the following figure:- $30,000.

SECTION 13. Said section 6 of said chapter 62 is hereby further amended by striking out, in line 277, as so appearing, the figure “$1,500” and inserting in place thereof the following figure:- $4,000.

SECTION 14. Said section 6 of said chapter 62 is hereby further amended by striking out, in line 279, as so appearing, the figure “$6,000” and inserting in place thereof the following figure:- $18,000.

SECTION 15. Said section 6 of said chapter 62 is hereby further amended by striking out, in line 290, as so appearing, the figure “2023” and inserting in place thereof the following figure:- 2028.

SECTION 16. Said section 6 of said chapter 62 is hereby further amended by striking out, in line 296, as so appearing, the figure “2024” and inserting in place thereof the following figure:- 2029.

SECTION 17. Paragraph (4) of subsection (j) of said section 6 of said chapter 62, as so appearing, is hereby amended by adding the following sentence:- For the purposes of the

Brownfields Redevelopment Fund, “state financial assistance” shall mean the amount of any grant or principal amount of any loan, but shall not include any loan principal repaid as of the date the credit application is filed with the commissioner. Net response and removal costs shall not include any reimbursement that is received, or will be received, by the applicant, or any amounts paid on behalf of the applicant from any source for these costs.

SECTION 18. Said section 6 of said chapter 62 is hereby further amended by striking out, in line 447, as so appearing, the figure “$750” and inserting in place thereof the following figure:- $1,500.

SECTION 19. Said section 6 of said chapter 62 is hereby further amended by striking out, in line 732, as so appearing, the figure “$6,000,000” and inserting in place thereof the following figure:- $8,000,000.

SECTION 20. Subsection (q) of said section 6 of said chapter 62 is hereby amended by striking out paragraph (5), as so appearing, and inserting in place thereof the following paragraph:-

(5) EOHLC may authorize not more than $30,000,000 in credits annually under this subsection and section 38BB of chapter 63. EOHLC may authorize annually any credits under this subsection or said section 38BB of said chapter 63 returned to EOHLC by a certified housing development project. The total amount of credits authorized during a year shall include: (1) credits granted during the year pursuant to this subsection or said section 38BB of said chapter 63; and (2) carry forwards of credits from prior years pursuant to this subsection or said section 38BB of said chapter 63, to the extent that such credit carry forwards are estimated by the commissioner to offset tax liabilities during the year. Any portion of the $30,000,000 annual cap

not awarded by EOHLC in a calendar year shall not be applied to awards in a subsequent year. EOHLC shall provide the commissioner of revenue with any documentation that the commissioner deems necessary to confirm compliance with the annual cap and the commissioner shall provide a report confirming compliance with the annual cap to the secretary of administration and finance and the secretary of housing and economic development.

SECTION 21. Said section 6 of said chapter 62 is hereby further amended by inserting after the figure "31-33", in line 1158, as so appearing, the following words:- and other expansion industries the secretary of labor and workforce development identifies as critical to a regional labor market economy.

SECTION 22. Said section 6 of said chapter 62 is hereby further amended by striking out subsections (x) and (y), as most recently amended by sections 30 to 33, inclusive, of chapter 102 of the acts of 2021, and inserting in place thereof the following subsection:-

(x) For the purposes of this subsection, "maintains a household" shall have the same meaning as in section 21 of the Code. With respect to a taxpayer who is a non-resident for part of the taxable year, the credit shall be further limited to the amount of allowable credit multiplied by a fraction, the numerator of which shall be the number of days in the taxable year the person resided in the commonwealth and the denominator of which shall be the number of days in the taxable year. A taxpayer who maintains a household that includes as a member at least 1 individual: (i) under the age of 13 who qualifies for exemption as a dependent under section 151 of the Code; (ii) who is a qualifying individual as defined in said section 21 of the Code; or (iii) at least 1 individual: (A) who is not less than 65 years of age or who is disabled; and (B) who qualifies as a dependent under section 152 of the Code, shall be allowed a credit in an amount

equal to $310 for each such dependent or qualifying individual with respect to the taxpayer; provided, however, that if the taxpayer is married at the close of the taxable year, the credit provided in this subsection shall be allowed if: (a) the taxpayer and the taxpayer's spouse file a joint return for the taxable year; or (b) the taxpayer qualifies as a head of household under section 2(b) of the Code. A person who is a non-resident for the entire taxable year shall not qualify for the credit. If the amount of the credit allowed under this subsection exceeds the taxpayer's tax liability, the commissioner shall treat the excess as an overpayment and shall pay the taxpayer the entire amount of the excess without interest.

SECTION 23. Section 6I of said chapter 62 is hereby amended by striking out, in line70, as so appearing, the figure "$40,000,000" and inserting in place thereof the following figure:- $60,000,000.

SECTION 24. Section 6 of chapter 62C of the General Laws, as so appearing, is hereby amended by striking subsection (a) and inserting in place thereof the following subsection:-

(a)(1) Every individual inhabitant of the commonwealth who receives or accrues during the taxable year Massachusetts gross income, as defined in section 2 of chapter 62, in excess of $8,000 shall make a return of such income.

Every nonresident whose Massachusetts gross income, determined in accordance with section 5A of chapter 62, exceeds $8,000 or the personal exemption to which such nonresident may be entitled under section 3 of said chapter 62, whichever is the lesser, and every partnership, association or trust whose federal gross income, as defined in section 1 of said chapter 62, exceeds one $100, shall make a return of such income.

Every individual, not otherwise required to file a return under this subsection, who is a resident for a portion of a 12-month period beginning on the first day of a taxable year and a nonresident for a portion of the same 12-month period and whose Massachusetts gross income, as defined in section 2 of chapter 62, exceeds $8,000 shall make separate returns as a resident and a nonresident of his income subject to taxation under said chapter 62.

(2) A married couple shall file a joint return for any year in which they file a joint federal income tax return. In cases where 1 spouse or both spouses are non-residents of the commonwealth and have items of income, exemptions or deductions unrelated to their Massachusetts income, the department shall provide by regulation for appropriate adjustments or for exemption from the requirement to file a joint return.

SECTION 25. Section 5 of chapter 62F of the General Laws, as so appearing, is hereby amended by adding the following subsection:-

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

SECTION 26. Section 38Q of chapter 63 of the General Laws, as so appearing, is hereby amended by striking out, in line 3, the figure “2023” and inserting in place thereof the following figure:- 2028.

SECTION 27. Said section 38Q of said chapter 63, as so appearing, is hereby further amended by striking out, in line 9, the figure “2024” and inserting in place thereof the following figure:- 2029.

SECTION 28. Subsection (d) of said section 38Q of said chapter 63, as so appearing, is hereby amended by adding the following sentence:- For the purpose of the Brownfields Redevelopment Fund, “state financial assistance” shall mean the amount of any grant or principal amount of any loan, but shall not include any loan principal repaid as of the date the credit application is filed with the commissioner. Net response and removal costs shall not include any reimbursement that is received, or will be received, by the applicant, or any amounts paid on behalf of the applicant from any source for these costs.

SECTION 29. Section 38Z of said chapter 63, as so appearing, is hereby amended by striking out, in line 28, the figure “$6,000,000” and inserting in place thereof the following figure:- $8,000,000.

SECTION 30. Section 38BB of said chapter 63 is hereby amended by striking out subdivision (5), as so appearing, and inserting in place thereof the following subdivision:-

(5) EOHLC may authorize up to $30,000,000 in credits annually under this section and subsection (q) of section 6 of chapter 62. EOHLC may authorize annually any credits under this section or said subsection (q) of said section 6 of said chapter 62 returned to EOHLC by a certified housing development project. The total amount of credits authorized during a year shall include: (1) credits granted during the year under this section or said subsection (q) of section 6 of chapter 62; and (2) carry forwards of credits from prior years under this section or said subsection (q) of section 6 of chapter 62, to the extent that such credit carry forwards are

estimated by the commissioner of revenue to offset tax liabilities during the year. Any portion of the $30,000,000 annual cap not awarded by EOHLC in a calendar year shall not be applied to awards in a subsequent year. EOHLC shall provide the commissioner of revenue with any documentation that the commissioner deems necessary to confirm compliance with the annual cap and the commissioner shall provide a report confirming compliance with the annual cap to the secretary of administration and finance and the secretary of housing and economic development.

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

SECTION 32. 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 section 2011 of the Code, as in effect on December 31, 2000, hereinafter referred to as the “credit”. If the federal gross estate of a person includes real or tangible personal property located outside of the commonwealth 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 such real or tangible personal property located outside of the commonwealth bears to the value

of the entire federal gross estate wherever situated, as determined under section 2011 of the Code, as in effect on December 31, 2000.

SECTION 33. Said section 2A of said chapter 65C, as so appearing, is hereby further amended by adding the following 2 subsections:-

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

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

SECTION 34. Section 21 of chapter 138 of the General Laws, as so appearing, is hereby amended by striking out, in lines 20 and 21, the words “six per cent of alcohol by weight” and inserting in place thereof the following words:- 8½ per cent of alcohol by volume.

SECTION 35. Said section 21 of said chapter 138, as so appearing, is hereby further amended by striking out, in line 25, the word “six” and inserting in place thereof the following figure:- 8 ½.

SECTION 36. Sections 46, 48, 61, 63 and 124A of chapter 287 of the acts of 2014 are hereby repealed.

SECTION 37. Chapter 358 of the acts of 2020 is hereby amended by striking out section 59.

SECTION 38. Section 112 of said chapter 358 is hereby amended by striking the words "Sections 59 and" and inserting in place thereof the following word:- Section.

SECTION 39. Notwithstanding any general or special law to the contrary, in calendar year 2023, the executive office of housing and livable communities may authorize not more than $57,000,000 in credits under subsection (q) of section 6 of chapter 62 of the General Laws and section 38BB of chapter 63 of the General Laws. Any portion of this amount that is not authorized in calendar year 2023 shall be added to the amount the executive office of housing and livable communities may authorize in subsequent years under said subsection (q) of said section (6) of said chapter 62 and said section 38BB of said chapter 63.

SECTION 40. The executive office for administration and finance shall conduct a study on the feasibility of creating a program of advance quarterly payments to taxpayers for credits that the department of revenue estimates would be treated as allowed for a taxpayer under subsection (x) of section 6 of chapter 62 of the General Laws for a taxable year. The study shall include, but not be limited to: (i) an operational plan for how the department of revenue could establish and maintain such a program; (ii) a description of the processes by which the department could collect information from taxpayers and from other agencies to maximize the accuracy of the department's estimate of the amount that would be treated as allowed for a taxpayer under said subsection (x) of said section 6 of said chapter 62 for a taxable year; (iii) a description of the options for maximizing participation in such a program by taxpayers who are eligible for credits under said subsection (x) of said section 6 of said chapter 62; (iv) an analysis of any other credits against tax included in said section 6 of said chapter 62 that the department could include in an advance quarterly payment program; (v) potential challenges to the establishment of such a program and strategies by which the department could address those

challenges; (vi) any legislative recommendations to support the establishment of such a program, if applicable; and (vii) an estimate of the funds that would be necessary for the department to establish and maintain such a program, if applicable.

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

SECTION 41. Notwithstanding any general or special law to the contrary, the department of revenue shall analyze the potential impact of implementing an additional, elective entity-level tax of up to 4 per cent on a portion of qualified taxable income in the commonwealth of eligible pass-through entities defined in section 1 of chapter 63D of the General Laws, coupled with a refundable tax credit. The analysis shall consider: (i) the impacts on the commonwealth's taxpayers and tax revenue; (ii) the feasibility of administering the additional elective tax; (iii) the feasibility of determining the portion of qualified income taxable in the commonwealth pursuant to this section based on: (A) an annual threshold tied to the threshold under Article XLIV of the Amendments of the Constitution; or (B) the consent of each qualified member to have a portion of the member's share of qualified income taxable in the commonwealth subject to the additional tax; (iv) passthrough entity tax regimes in other states; and (v) the impact of any tax on qualified members with taxable income below the annual threshold under said Article XLIV.

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

SECTION 42. The department of revenue, in consultation with the executive office of housing and livable communities, shall conduct a study on establishing a closing costs assistance

program to be operated in tandem with a first-time homebuying savings program for income-eligible first-time homebuyers. The study shall include, but not be limited to: (i) an analysis of the impact that such a program would have for first-time homebuyers; (ii) an analysis of the funding necessary to make such a program effective; (iii) recommendations on any income restriction for recipients of grants awarded from such a program that would make the program most impactful; (iv) an assessment of best practices for partnering with financial institutions to implement first-time homebuyer savings accounts; (v) any anticipated cost or revenue impact to the commonwealth associated with such an assistance and savings program; and (vi) the feasibility of and a detailed plan to implement such programs. The department of revenue shall submit its findings and recommendations to the clerks of the senate and house of representatives, the senate and house committees on ways and means and the joint committee on housing not later than January 1, 2024.

SECTION 43. Sections 3, 9 and 18 shall apply to tax years beginning on or after January 1, 2023.

SECTION 44. Sections 20 and 30 shall take effect as of January 1, 2024.

SECTION 45. Section 24 shall apply to tax years beginning on or after January 1, 2023.

SECTION 46. Sections 32 and 33 shall take effect for the estates of decedents dying on or after January 1, 2023.

SECTION 47. Except as otherwise specified, this act shall take effect for taxable years beginning on or after January 1, 2023.