SENATE DOCKET, NO. 1066 FILED ON: 1/17/2013

SENATE . . . . . No. 1368

The Commonwealth of Massachusetts

PRESENTED BY:

Mark C. Montigny

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 passage of the accompanying:

An Act relative to discharge of indebtedness of principal residence from gross income.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Mark C. Montigny	*Second Bristol and Plymouth*
William N. Brownsberger	*Second Suffolk and Middlesex*
Benjamin Swan	*11th Hampden*

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By Mr. Montigny, a petition (accompanied by bill, Senate, No. 1368) of Mark C. Montigny, William N. Brownsberger and Benjamin Swan for legislation relative to discharge of indebtedness of principal residence from gross income. Revenue.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to discharge of indebtedness of principal residence from gross income.

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

SECTION 1. Section 2 of chapter 62 of the General Laws, as most recently amended by chapter 28 of the acts of 2009, is amended by inserting in subparagraph (M) of paragraph (2) of subsection (a) before the words “Any amount”:- (i).

SECTION 2. Section 2 of chapter 62 of the General Laws, as most recently amended by chapter 28 of the acts of 2009, is amended by inserting after paragraph (M)(i) of subsection (a) the following:-

(ii) To the extent not otherwise excluded from gross income, in whole or in part, the discharge of qualified principal residence indebtedness is excluded from gross income, subject to the following conditions and limitations:

(a) Basis reduction.--The amount excluded from gross income by reason of subsection (a)(2)(M) shall be applied to reduce (but not below zero) the basis of the principal residence of the taxpayer.

(b) Qualified principal residence indebtedness.--For purposes of this section, the term “qualified principal residence indebtedness” means acquisition indebtedness (within the meaning of section 163(h)(3)(B) of the Code) for the principal residence of the taxpayer, up to and including $2,000,000 if married filing jointly or $1,000,000 in the case of a married individual filing a separate return.

(c) Exception for certain discharges not related to taxpayer's financial condition.--Subsection (a)(2)(M) shall not apply to the discharge of a loan if the discharge is on account of

20 services performed for the lender or any other factor not directly related to a decline in the value
21 of the residence or to the financial condition of the taxpayer.

22 (d) Ordering rule.--If any loan is discharged, in whole or in part, and only a
23 portion of such loan is qualified principal residence indebtedness, subsection (a)(2)(M) shall
24 apply only to so much of the amount discharged as exceeds the amount of the loan (as
25 determined immediately before such discharge) which is not qualified principal residence
26 indebtedness. The principal residence exclusion take precedence over an insolvency exclusion
27 unless elected otherwise.

28 (e) Principal residence.--For purposes of this subsection, the term "principal
29 residence" has the same meaning as when used in section 121 of the Code.

30 SECTION 3. This Act shall apply to discharges of indebtedness on or after January 1,
31 2013.