

SENATE No. 510

[Senate, No. 510. — Substituted by amendment (Hunt) for House Bill No. 2013, amended.]

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Thirty-Eight.

AN ACT RELATIVE TO ABATEMENT OF CERTAIN TAXES.

1 *Whereas*, The deferred operation of this act would
2 tend to defeat its purpose, therefore it is hereby de-
3 clared to be an emergency law, necessary for the
4 immediate preservation of the public convenience.

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. Chapter fifty-nine of the General Laws
2 is hereby amended by striking out section sixty-four,
3 as most recently amended by section of
4 chapter of the acts of the current
5 year, and inserting in place thereof the following: —
6 *Section 64.* A person aggrieved by the refusal of
7 assessors to abate a tax on personal property which
8 has been paid, or a tax of not more than one thousand
9 dollars on a parcel of real estate, or a tax of more than
10 one thousand dollars on a parcel of real estate which
11 tax either has been paid or on account of which there
12 has been paid a sum not less than the amount of the
13 tax which would have been assessed thereon if such

14 tax had been assessed upon a valuation equivalent to
15 the average assessed value thereof, less any reduction
16 of such assessed value as evidenced by abatements of
17 taxes assessed thereon, during the three years next
18 preceding the year in which such tax was assessed,
19 may, within sixty days after receiving the notice
20 provided in section sixty-three, or within ninety days
21 after the time when the application for abatement is
22 deemed to be refused as hereinafter provided, appeal
23 therefrom by filing a complaint with the clerk of the
24 county commissioners, or of the board authorized to
25 hear and determine such complaints, for the county
26 where the property taxed lies, and if on hearing the
27 board finds that the property has been overrated, and
28 that the complainant has complied with all applicable
29 provisions of law, it shall make a reasonable abate-
30 ment and an order as to costs. Whenever a board of
31 assessors, before which an application in writing for
32 the abatement of a tax is or shall be pending, fails to
33 act upon said application, except with the written
34 consent of the applicant, prior to the expiration of
35 four months from the date of filing of such application
36 it shall then be deemed to be refused and the authority
37 of the assessors to act thereon shall thereupon ter-
38minate. If the list of personal property required to be
39 brought in to the assessors was not brought in within
40 the time specified in the notice required by section
41 twenty-nine, no tax upon personal property shall be
42 abated unless the board appealed to finds good cause
43 for this delay or unless the assessors have so found as
44 provided in section sixty-one, or unless such tax
45 exceeds by fifty per cent the amount which would
46 have been assessed on such estate, if the list had been
47 seasonably brought in, and in such case only the

48 excess over such fifty per cent shall be abated. A tax
49 or assessment upon real estate may be abated although
50 no list of property was brought in within the time
51 specified by the notice required by section twenty-
52 nine; provided, that the application for an abatement
53 of such a tax or assessment included a sufficient de-
54 scription of the particular real estate as to which an
55 abatement is requested.

56 Upon the filing of a complaint under this section
57 the clerk of the county commissioners or of the board
58 authorized to hear and determine the same shall
59 forthwith transmit a certified copy of such complaint
60 to the assessors and the assessors or the city solicitor
61 or town counsel may within thirty days after receipt
62 of said copy give written notice to said clerk and to
63 the complainant that the town elects to have the
64 same heard and determined by the appellate tax
65 board. Thereupon, the clerk of the county commis-
66 sioners or of the board authorized to hear and deter-
67 mine such complaints shall forward all papers with
68 respect to such complaint then in the file of the
69 county commissioners or other such board to the
70 clerk of the appellate tax board and proceedings with
71 respect to such complaint shall thenceforth be con-
72 tinued as provided in chapter fifty-eight A. If upon
73 hearing it appears that the complainant has complied
74 with all applicable provisions of law and the ap-
75 pellate tax board finds that the complainant is duly
76 entitled to an abatement, it may grant him such
77 reasonable abatement as justice may require, and shall
78 enter an order directing the treasurer of the town to
79 refund said amount, if the tax sought to be abated
80 has been paid, together with all charges and interest
81 at five per cent on the amount of the abatement from

82 the date of the payment of the tax. The board may
83 make such order with respect to the payment of costs
84 as justice may require.

1 SECTION 2. Said chapter fifty-nine is hereby
2 further amended by striking out section sixty-five, as
3 most recently amended by section one of chapter one
4 hundred and sixty-seven of the acts of nineteen hun-
5 dred and thirty-three, and inserting in place thereof
6 the following: —

7 *Section 65.* A person aggrieved as aforesaid may,
8 instead of pursuing the remedy provided in section
9 sixty-four, but subject to the same conditions, appeal
10 to the appellate tax board by filing a petition with
11 such board within sixty days after receiving the notice
12 required by section sixty-three, or within ninety days
13 after the time when the application for abatement is
14 deemed to be refused as provided in section sixty-four.
15 Such appeal shall be heard and determined by said
16 board in the manner provided by chapter fifty-eight A.
17 The board may enter such order as justice may require
18 in the manner provided in the preceding section
19 with respect to complaints removed from the county
20 commissioners.

1 SECTION 3. Said chapter fifty-nine is hereby fur-
2 ther amended by inserting after section sixty-five, as
3 amended, the following new section:— *Section 65A.*
4 A person aggrieved by the refusal of assessors to abate
5 a tax of more than one thousand dollars on a parcel of
6 real estate and who has paid on account of such tax
7 not less than one-half of the amount which would be
8 due on an assessment based on a valuation equal to
9 the average assessed value, less any reductions thereof,

10 as evidenced by abatements of taxes assessed thereon,
11 of such parcel of real estate for the three years next
12 preceding the year in which such tax was assessed
13 and who is unable presently to pay the amount of tax
14 remaining unpaid, if any, may, within sixty days after
15 receipt of the notice provided in section sixty-three, or
16 within ninety days after the time when the application
17 for abatement is deemed to be refused as provided in
18 section sixty-four, petition the appellate tax board for
19 leave to file an appeal therefrom to said board. Such
20 petition shall allege that the petitioner is unable
21 presently to pay such amount of tax, and that, except
22 as to the provision of section sixty-four relative to
23 payment of such tax, the petitioner is otherwise en-
24 titled to an appeal under section sixty-five, and shall
25 be filed with the clerk of the appellate tax board. A
26 notice of the filing of such petition shall be given by
27 said clerk to the appropriate board of assessors within
28 five days from the date of the filing of such petition,
29 in such form and in such manner as said board shall
30 by rule provide, and a hearing, due notice of which
31 shall have been given, shall be had on such petition
32 not later than twenty days from the date of the filing
33 thereof. Such petition shall be heard by a single
34 member of said board. If such member finds the
35 facts to be as alleged in such petition, he may, by
36 order, grant leave to such petitioner to file such appeal,
37 within ten days from the entry of said order, upon
38 such conditions as may be imposed therein which may
39 include a condition that such petitioner pay such
40 amount of tax in whole or by installments as a con-
41 dition to any hearing on the merits of an appeal filed
42 under said order. If the complainant should fail to
43 comply with any of the conditions imposed in said

44 order an appeal filed thereunder may, upon motion,
45 be dismissed by any member of said board. If the
46 complainant complies with the conditions imposed in
47 said order the appeal filed thereunder shall thereafter
48 be heard and determined by said board in the manner
49 provided by chapter fifty-eight A. The board may
50 enter such order as justice may require in the manner
51 provided in section sixty-four with respect to com-
52 plaints removed from the county commissioners.

1 SECTION 4. Chapter fifty-eight A of the General
2 Laws is hereby amended by striking out section six,
3 as most recently amended by section of
4 chapter of the acts of the current year,
5 and inserting in place thereof the following: —
6 *Section 6.* The board shall have jurisdiction to de-
7 cide appeals under the provisions of section forty-
8 two E of chapter forty; sections eleven, fourteen
9 and twenty-five of chapter fifty-eight; of clauses
10 seventeen and twenty-second of section five of
11 chapter fifty-nine; sixty-four, sixty-five, sixty-five A,
12 seventy-three and eighty-one of said chapter fifty-
13 nine; of section two of chapter sixty A; of section
14 forty-five of chapter sixty-two; of sections two, eight-
15 een A, twenty-eight, fifty-one, sixty and seventy-one of
16 chapter sixty-three; of section six of chapter sixty-
17 four; of sections five and ten of chapter sixty-four A;
18 of sections twenty-five and twenty-six of chapter sixty-
19 five; of section four of chapter sixty-five A; and under
20 any other provision of law wherein such jurisdiction
21 is or may be expressly conferred. Except as otherwise
22 provided by law, no appeal to the board shall stay
23 the collection of any tax or excise. Whenever the
24 commissioner of corporations and taxation, in this

25 chapter called the commissioner, or a board of as-
26 sessors, before whom or which an application in
27 writing for the abatement of a tax is or shall be pend-
28 ing, fails to act upon said application, except with
29 the written consent of the applicant, prior to the
30 expiration of four months from the date of filing of
31 such application, it shall then be deemed to be denied
32 and the authority of the commissioner or of the board
33 of assessors to act thereon shall thereupon terminate,
34 and the taxpayer shall have the right, at any time
35 within ninety days thereafter, to take any appeal from
36 such denial to which he may be entitled by law, in
37 the same manner as though the commissioner or board
38 of assessors had in fact refused to grant the abate-
39 ment applied for.

