

# HOUSE . . . . . No. 2776

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## The Commonwealth of Massachusetts

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By Mr. Segel of Brookline, petition for legislation to provide for income tax credits for persons of low and moderate incomes through a "circuit breaker" system and increasing the rate of the income tax. Taxation.

Petition signed by:

James Segel  
Ann C. Gannett  
Angelo M. Scaccia  
William G. Robinson  
Barbara E. Gray  
Laurence R. Buxbaum  
Melvin H. King  
James G. Collins  
Peter F. Harrington  
Barney Frank  
Doris Bunte

John G. King  
Max Volterra  
Robert I. Owens  
Elaine Noble  
Andrew H. Card, Jr.  
Edward M. Dickson  
John S. Ames III  
Jack H. Backman  
Bruce H. Zeiser  
Belden G. Bly, Jr.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Seventy-Five.

AN ACT PROVIDING FOR INCOME TAX CREDITS FOR PERSONS OF LOW AND MODERATE INCOMES THROUGH A "CIRCUIT BREAKER" SYSTEM AND INCREASING THE RATE OF THE INCOME TAX.

*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. Subparagraph (a) of section 4 of chapter 62 of  
2 the General Laws, as appearing in section 2 of chapter 723 of the  
3 acts of 1973, is hereby amended by inserting after the word  
4 "nine" the words:—and one-half.

1 SECTION 2. Subparagraph (b) of said section 4 as so  
2 appearing is hereby amended by inserting after the word "five"  
3 the words:—and one-half.

1 SECTION 3. Said chapter 62 is hereby further amended by  
2 inserting after section 6 the following new section:—

3 *Section 6A. Real Estate Tax Credit.*

4 A credit shall be allowed against taxes imposed by this  
5 chapter, subject to the following restrictions and limitations, for  
6 that portion of the real estate tax levied pursuant to chapter  
7 fifty-nine on the personal residence of a resident of the  
8 Commonwealth and paid, either directly or through rent, by  
9 said resident.

10 This credit shall be allowed only to residents whose total  
11 household income, less all personal exemptions allowable  
12 pursuant to §5B(a) (1-4) of this chapter, did not exceed ten  
13 thousand dollars during the taxable year in which the real estate  
14 tax was paid. The credit shall be equal to 90% of the amount by  
15 which the real estate tax paid by the taxpayer on his personal  
16 residence exceeds eight percent of his total household income,  
17 less said personal exemptions, for such taxable year. No credit  
18 allowed under this section may exceed five hundred dollars.

19 A taxpayer whose total household income less said personal  
20 exemptions exceeded ten thousand dollars during said taxable  
21 year may, if such income less said exemptions would not exceed  
22 ten thousand dollars if the real estate tax paid were subtracted  
23 therefrom, claim a credit as if his income did not exceed ten  
24 thousand dollars, but such credit shall be calculated on the  
25 actual total household income of the taxpayer. Any single  
26 taxpayer who qualified during any portion of the taxable year as  
27 a dependent of another individual, who need not have been a  
28 resident of the commonwealth, may not claim this credit on his  
29 own behalf. If the tax due as shown by the return of any  
30 taxpayer is less than the credit which he may claim pursuant to  
31 this section, he shall be entitled to a refund of the amount by  
32 which the credit exceeds the tax otherwise due.

33 Any person entitled to claim any credit pursuant to this  
34 section and not otherwise required to file a return under this  
35 chapter may obtain a refund in the amount of such credit by  
36 filing a return and claiming a refund. Any refund to which a  
37 person is entitled under the provisions of this section shall be  
38 made in the same manner as other refunds under this chapter.  
39 No refund or credit shall be allowed pursuant to this section  
40 unless such credit or refund is claimed on a return filed on or  
41 before the fifteenth day of the fourth month following the close  
42 of the taxable year, or within any extension of time granted for  
43 filing such return. The commissioner may adopt such  
44 regulations, prescribe such forms, and require such information,  
45 including reasonable proof of rent paid, as he finds necessary to  
46 implement the provisions of this section.

47 Whenever on the audit of any claim filed under this section  
48 the commissioner determines the amount thereof to have been  
49 incorrectly determined, the commissioner shall redetermine such  
50 claim and notify the claimant of such redetermination and the  
51 reasons therefor. Such redetermination shall be final unless  
52 appealed to the appellate tax board within 30 days of receipt of  
53 notice thereof.

54 In any case in which the commissioner determines that a claim  
55 is or was excessive and was filed with fraudulent intent, the  
56 claim shall be disallowed in full, and, if the claim has been paid

57 or a credit has been allowed against income taxes otherwise  
58 payable, the credit shall be canceled and the amount paid may  
59 be recovered by assessment as income taxes are assessed and  
60 such assessment shall bear interest from the date of payment or  
61 credit of the claim, until refunds or paid, at the rate of one-half  
62 percent per month. The claimant in such case, and any person  
63 who with fraudulent intent assisted in the preparation or filing  
64 of such excessive claim or supplied information upon which  
65 such excessive claim was prepared, shall upon conviction be  
66 guilty of a misdemeanor. In any case in which the commissioner  
67 determines that a claim is or was excessive and was negligently  
68 prepared, ten percent of the corrected claim shall be disallowed  
69 and if the claim has been paid, or credited against income taxes  
70 otherwise payable, the credit shall be reduced or canceled, and  
71 the proper portion of any amount paid shall be similarly  
72 recovered by assessment as income taxes are assessed and such  
73 assessment shall bear interest at one-half of one percent per  
74 month from the date of payment until refunded or paid.

75 For the purposes of this section, the following words shall  
76 have the following meanings:

77 "Total household income" shall mean all income of any  
78 nature received from all sources by **all members** of the  
79 household of the taxpayer during the taxable year, except gifts  
80 from nongovernmental sources, surplus food or other non-  
81 monetary relief supplied by a government agency, or accident or  
82 life insurance payments.

83 "Residence" shall mean a building, including a mobile home,  
84 owned or rented by the taxpayer, located within the com-  
85 monwealth and actually occupied as the primary dwelling of the  
86 taxpayer for at least one hundred fifty consecutive days during  
87 the taxable year in which the real estate tax was paid, and so  
88 much of the land surrounding it, not exceeding one acre, which  
89 is reasonably necessary for use of the building as a personal  
90 residence. A residence may consist of a part of a multi-unit or  
91 multi-purpose building and so much of the land upon which the  
92 building is built, not exceeding one acre, as is reasonably  
93 necessary for use of said building as a dwelling.

94 "Real estate tax paid" shall mean the real estate tax levied  
95 pursuant to chapter fifty-nine on the personal residence of the

96 taxpayer, and paid thereon during said taxable year directly or  
97 indirectly through rent, less any amount abated or refunded to  
98 said taxpayer. For the purposes of this section, twenty-five  
99 percent of the gross rent paid for a personal residence shall be  
100 deemed to be real estate tax paid. If a residence is an integral  
101 part of a larger area, including but not limited to a farm, or a  
102 multi-purpose or multi-unit building, the amount of tax paid  
103 shall be calculated as the same proportion of the real estate tax  
104 paid on the whole area or building as the value of the residence  
105 is of the value of the larger area of building. A resident who  
106 changes his permanent residence during the taxable year may  
107 add together the real estate taxes paid on such residences, but  
108 may not include taxes paid on more than one residence for the  
109 same period of time.

110 "Gross rent" shall mean rent paid at arms-length solely for the  
111 right of occupancy of a residence exclusive of payments for any  
112 utilities other than heat or hot water, or any services, furniture,  
113 furnishings or appliances provided by the landlord as a part of  
114 the rental agreement, whether or not expressly indicated therein.  
115 In any case in which the landlord and tenant have not dealt with  
116 each other at arms-length and the commissioner finds that the  
117 gross rent claims was excessive, the commissioner may adjust  
118 such gross rent to a reasonable amount for the purposes of this  
119 section. If the tenant does not indicate the portion of the rent  
120 attributable to any such utilities, services, furniture, furnishings  
121 or appliances provided to him, or if such amounts appear to be  
122 incorrect, the commissioner may apply a percentage derived  
123 from samples of similar rents in the same area.

124 No owner of rented residential property may increase rents in  
125 order to recover, directly or indirectly, any credit or refund  
126 claimed or received by a tenant, lessee or occupant pursuant to  
127 this section, and no tenant, lessee or occupant shall be legally  
128 obligated to pay any such increase or penalized in any way for  
129 failure to do so.

1 SECTION 4. The provisions of this act shall apply to taxable  
2 years commencing after December thirty-first, nineteen hundred  
3 and seventy-four.

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