

HOUSE No. 929

By Mr. Otis of Boston, petition of the Massachusetts Association of Real Estate Boards for amendment of the law relative to applications for abatement of taxes and to appeals from refusals to abate taxes. Taxation.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty-Nine.

AN ACT AMENDING THE PROVISIONS OF LAW RELATIVE TO APPLICATIONS FOR THE ABATEMENT OF TAXES AND RELATIVE TO APPEALS FROM THE REFUSAL TO ABATE TAXES.

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 59 of the General Laws is hereby
2 amended by striking out section 59, as most recently amended
3 by chapter 199 of the acts of 1946, and inserting in place
4 thereof the following section:—

5 *Section 59.* A person upon whom a tax has been assessed or
6 the administrator of the estate of such a person or the executor
7 or trustee under the will of such a person, if aggrieved by such
8 tax, may, except as hereinafter otherwise provided, on or before
9 October first of the year to which the tax relates or, if the tax
10 is other than a poll tax and the bill or notice was first sent
11 after September first of such year, on or before the thirtieth
12 day after the date on which the bill or notice was so sent, apply
13 in writing to the assessors, on a form approved by the com-
14 missioner, for an abatement thereof, and if they find him taxed
15 at more than his just proportion, or that the property has been
16 overrated, or that he has been taxed upon an assessment of
17 any of his property in excess of its fair cash value, or upon an
18 assessment of his property at a percentage of its fair cash value
19 greater than the percentage of fair cash value assessed on
20 other property in the same city or town, they shall make a
21 reasonable abatement which, in the case of an assessment at

22 such greater percentage, shall be granted notwithstanding that
23 the complainant's property may have been assessed at less
24 than its fair cash value and notwithstanding the provisions of
25 any other law to the contrary; provided, that a person ag-
26 grieved by a tax assessed upon him under section seventy-five
27 or reassessed upon him under section seventy-seven may apply
28 for such abatement at any time within three months after the
29 bill or notice of such assessment or reassessment is first sent
30 to him. A tenant of real estate paying rent therefor and under
31 obligation to pay more than one-half of the taxes thereon may
32 apply for such abatement. If a person other than the person
33 to whom a tax on real estate is assessed is the owner thereof,
34 or has an interest therein, or is in possession thereof, and pays
35 the tax, he may thereafter prosecute in his own name any ap-
36 plication, appeal or action provided by law for the abatement
37 or recovery of such tax, which after the payment thereof shall
38 be deemed for the purposes of such application, appeal or ac-
39 tion, to have been assessed to the person so paying the same.
40 The holder of a mortgage on real estate who has paid not less
41 than one-half of the tax thereon may apply in the manner above
42 set forth for an abatement of such tax during the period in
43 which the person upon whom such tax is assessed could apply
44 provided the person assessed has not previously applied for
45 abatement of such tax, and thereupon the right of the person
46 assessed to apply shall cease and determine. The holder of a
47 mortgage so applying for abatement may thereafter prosecute
48 any appeal or action provided by law for the abatement or re-
49 covery of such tax in the same manner and subject to the same
50 conditions as a person aggrieved by a tax assessed upon him.

1 SECTION 2. Chapter 59 of the General Laws is hereby
2 amended by striking out section 64, as most recently amended
3 by chapter 544 of the acts of 1956, and inserting in place thereof
4 the following section:—

5 *Section 64.* A person aggrieved by the refusal of assessors
6 to abate a tax on personal property at least one-half of which
7 has been paid, or a tax of not more than one thousand dollars
8 on a parcel of real estate, or a tax of more than one thousand
9 dollars on a parcel of real estate which tax either has been paid
10 or on account of which there has been paid a sum not less than
11 the amount which would be assessable in the year of assess-

12 ment of the tax upon a valuation equal to the average of the
13 valuations of said parcel, as reduced by reasons of abatements,
14 if any, for the three years next preceding said year, may,
15 within three months after receiving the notice provided in sec-
16 tion sixty-three, or within three months after the time when the
17 application for abatement is deemed to be denied as hereinafter
18 provided, appeal therefrom by filing a complaint with the clerk
19 of the county commissioners, or of the board authorized to hear
20 and determine such complaints, for the county where the prop-
21 erty taxed lies, and if on hearing the board finds him taxed at
22 more than his just proportion, or that the property has been
23 overrated, or that he has been taxed upon an assessment of
24 any of his property in excess of its fair cash value or upon an
25 assessment of his property at a percentage of its fair cash value
26 greater than the percentage of fair cash value assessed on
27 other property in the same city or town, and that the com-
28 plainant has complied with all applicable provisions of law, it
29 shall make a reasonable abatement, which, in the case of an
30 assessment at such greater percentage, shall be granted not-
31 withstanding that the complainant's property may have been
32 assessed at less than its fair cash value and notwithstanding the
33 provisions of any other law to the contrary, and an order as to
34 costs; provided, that no appeal may be taken under this sec-
35 tion with respect to a tax on property in Revere or Winthrop.
36 Whenever a board of assessors, before which an application in
37 writing for the abatement of a tax is or shall be pending, fails
38 to act upon said application, except with the written consent
39 of the applicant, prior to the expiration of three months from
40 the date of filing of such application it shall then be deemed to
41 be denied and the assessors shall have no further authority to
42 act thereon; provided, that during the period allowed for the
43 taking of an appeal the assessors may by agreement with the
44 applicant abate the tax in whole or in part in final settlement
45 of said application, and shall also have the authority granted to
46 them by section seven of chapter fifty-eight A to abate, in
47 whole or in part, any tax as to which an appeal has been sea-
48 sonably taken. If the list of personal property required to be
49 brought in to the assessors was not brought in within the time
50 specified in the notice required by section twenty-nine, no tax
51 upon personal property shall be abated unless the board ap-
52 pealed to finds good cause for this delay or unless the assessors

53 have so found as provided in section sixty-one, or unless such
54 tax exceeds by fifty per cent the amount which would have
55 been assessed on such estate, if the list had been seasonably
56 brought in, and in such case only the excess over such fifty per
57 cent shall be abated. A tax or assessment upon real estate may
58 be abated although no list of property was brought in within
59 the time specified by the notice required by section twenty-nine;
60 provided, that the application for an abatement of such tax
61 or assessment included a sufficient description of the particular
62 real estate as to which an abatement is requested.

63 Upon the filing of a complaint under this section the clerk
64 of the county commissioners or the board authorized to hear
65 and determine the same shall forthwith transmit a certified
66 copy of such complaint to the assessors and the assessors or
67 the city solicitor or town counsel may within thirty days after
68 receipt of said copy give written notice to said clerk and to
69 the complainant that the town elects to have the same heard
70 and determined by the appellate tax board. If the assessed
71 valuation of the property on which the tax complained of
72 was assessed does not exceed twenty thousand dollars and such
73 property is occupied in whole or in part by the complainant
74 as his dwelling, contains not more than three units designed
75 for dwelling purposes and is in no part used for any other
76 purposes, or if the assessed valuation of the property on which
77 the tax complained of was assessed does not exceed five thou-
78 sand dollars and such property is within the class of tangible
79 personal property described in clause twentieth of section five
80 of chapter fifty-nine, the party making the election under this
81 section to have the complaint heard and determined by the
82 appellate tax board shall, at the time of making such election,
83 pay to the clerk of the county commissioners a transfer fee of
84 two dollars. Thereupon, the clerk of the county commissioners
85 or of the board authorized to hear and determine such com-
86 plaints shall forward the transfer fee and all papers with re-
87 spect to such complaint then in the files of the county com-
88 missioners or other such board to the clerk of the appellate tax
89 board and proceedings with respect to such complaint shall
90 thenceforth be continued as provided in chapter fifty-eight A,
91 under the formal procedure, except that complaints requiring
92 the transfer fee of two dollars shall be continued under the

93 informal procedure under said chapter fifty-eight A, unless the
94 complainant files an election with the clerk of the appellate tax
95 board that the complaint be heard under the formal procedure
96 within ten days after receiving the notice as hereinafter pro-
97 vided that the complaint has been transferred to the appellate
98 tax board. Upon the transfer of such complaint to said board
99 the clerk of said board shall send notice by registered mail to
100 the complainant that such complaint has been transferred,
101 and the complainant shall, within ten days after receiving such
102 notice, pay to said board the entry fee as required by section
103 seven of said chapter fifty-eight A, except that the complainant
104 shall not be required to pay any entry fee if the provisions of
105 this section relative to the payment of the transfer fee have
106 been complied with. Upon receipt of the entry fee or transfer
107 fee herein provided for, the clerk of the appellate tax board
108 shall notify the respondent board of assessors that a complaint
109 is pending against it. In case the respondent desires to answer,
110 it shall file an answer within thirty days of the receipt of notice
111 of the pendency of the complaint or within such further time
112 as the board may allow. If upon hearing it appears that the
113 complainant has complied with all applicable provisions of
114 law and the appellate tax board finds that the complainant is
115 duly entitled to an abatement, for the reason that he has been
116 taxed at more than his just proportion, or that the property has
117 been overrated, or that he has been taxed upon an assessment
118 of any of his property in excess of its fair cash value or upon
119 an assessment of his property at a percentage of its fair cash
120 value greater than the percentage of fair cash value assessed
121 on other property in the city or town, it may grant him such
122 reasonable abatement as justice may require, which in the case
123 of an assessment at such greater percentage, may be granted
124 notwithstanding that the complainant's property may have
125 been assessed at less than its fair cash value and notwithstand-
126 ing the provisions of any other law to the contrary, and shall
127 enter an order directing the treasurer of the city or town to
128 refund said amount, if the tax sought to be abated has been
129 paid, together with all charges and interest at four per cent on
130 the amount of the abatement from the date of the payment of
131 the tax. The board may make such order with respect to the
132 payment of costs as justice may require.

1 SECTION 3. This act shall apply to applications for abate-
2 ment of assessments made in the year nineteen hundred and
3 fifty-nine and thereafter and to appeals from such assessments.
4 The provisions of said sections fifty-nine and sixty-four as in
5 effect immediately prior to the effective date of this act, shall
6 continue to apply to applications for abatements and appeals
7 from refusals to allow such applications with reference to taxes
8 assessed prior to January first, nineteen hundred and fifty-nine.

HOUSE

THE HOUSE OF REPRESENTATIVES
OF THE STATE OF NEW YORK
IN SENATE

REPORT OF THE

COMMISSIONERS OF THE LAND OFFICE

FOR THE YEAR ENDING 1887
ALBANY: PUBLISHED BY THE STATE PRINTING OFFICE, 1888.

