

By Mr. Flaherty of Boston, petition of Kevin H. White and Michael F. Flaherty that cities and towns be authorized to impose taxes on property owned by tax exempt institutions but devoted to commercial use. Taxation.

The Commonwealth of Massachusetts

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

AN ACT TO ENABLE CITIES AND TOWNS TO TAX PROPERTY OWNED BY EXEMPT INSTITUTIONS BUT DEVOTED TO COMMERCIAL USE.

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

1 Chapter 59 of the General Laws is hereby amended by the
2 addition of the following: —

3 *Section 5C.* Notwithstanding any law to the contrary, the
4 exemptions mandated by chapter fifty-nine and any special law
5 shall not apply to any property which during the preceding
6 year was devoted to a commercial use for at least four weeks.
7 To count as such a week the commercial use must have
8 occurred during at least three business days of any single week.

9 For purposes of this section, a commercial use is any use
10 from which the exempt property holder or his lessee derives
11 income and which does not provide the primary public service
12 for which the property owner is exempt. Examples of such
13 secondary or incidental uses shall include, but not be limited
14 to, the following: parking; housing; and retail sales. Any prop-
15 erty, real or personal, leased or licensed to a private profit
16 making commercial enterprise is hereby declared to be a
17 commercial use and taxable unless the property owner can
18 establish to the satisfaction of the assessors of the city or town
19 in which the property is located that such service as provided
20 by or on the property in issue is the reason for the exemption
21 and furthermore that said property owner could not provide
22 the same service for the same or lower total cost than the total
23 of the lessees or licensees rent or license fee, net profit and
24 total operating expenses.

25 Once a property is determined to be put to a commercial
26 use, the city or town may assess it as any other taxable
27 property. If only a part of a building or lot is occupied by a
28 commercial use as defined in this section, the property shall be
29 taxed on a pro rata basis so that the percentage of the
30 property put to such an incidental or secondary use is assessed
31 as any other taxable property in the city or town.