

**SENATE . . . . . No. 1480**

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By Mr. Tobin, a petition (accompanied by bill, Senate, No. 1480) of Arthur H. Tobin, Elizabeth N. Metayer, Thomas F. Brownell and others for legislation to provide real estate tax relief for low and middle income persons through a "circuitbreaker" system of credits or refunds on the state income tax. Taxation.

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**The Commonwealth of Massachusetts**

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

AN ACT TO PROVIDE REAL ESTATE TAX RELIEF FOR LOW AND MIDDLE INCOME PERSONS THROUGH A "CIRCUITBREAKER" SYSTEM OF CREDITS OR REFUNDS ON THE STATE 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. Chapter 62 of the General Laws is hereby
- 2 amended by adding the following section after section six: —
- 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,
- 6 for that portion of the real estate tax levied pursuant to chap-
- 7 ter 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
- 14 estate tax was paid. The credit shall be equal to 90% of the
- 15 amount by which the real estate tax paid by the taxpayer on
- 16 his personal residence exceeds eight percent of his total house-
- 17 hold income, less said personal exemptions, for such taxable
- 18 year. No credit allowed under this section may exceed five
- 19 hundred dollars.
- 20 A taxpayer whose total household income less said personal
- 21 exemptions exceeded ten thousand dollars during said taxable
- 22 year may, if such income less said exemptions would not

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

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

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

56 In any case in which the commissioner determines that a  
57 claim shall be disallowed in full, and, if the claim has been  
58 paid or a credit has been allowed against income taxes other-  
59 wise payable, the credit shall be canceled and the amount paid  
60 may be recovered by assessment as income taxes are assessed  
61 and such assessment shall bear interest from the date of pay-  
62 ment or credit of the claim, until refunds or paid, at the rate

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

77 For the purposes of this section, the following words shall  
78 have the following meanings:

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

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

96 "Real estate tax paid" shall mean the real estate tax levied  
97 pursuant to chapter fifty-nine on the personal residence of the  
98 taxpayer, and paid thereon during said taxable year directly  
99 or indirectly through rent, less any amount abated or refunded  
100 to said taxpayer. For the purposes of this section, twenty-five  
101 percent of the gross rent paid for a personal residence shall  
102 be deemed to be real estate tax paid. If a residence is an

103 integral part of a larger area, including but not limited to a  
104 farm, or a multi-purpose or multi-unit building, the amount  
105 of tax paid shall be calculated as the same proportion of the  
106 real estate tax paid on the whole area or building as the value  
107 of the residence is of the value of the larger area of building.  
108 A resident who changes his permanent residence during the  
109 taxable year may add together the real estate taxes paid on  
110 such residences, but may not include taxes paid on more than  
111 one residence for the same period of time.

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

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

1 SECTION 2. This act shall apply to all taxable years beginning  
2 on or after January 1, 1974.

1 SECTION 3. The provisions of this act shall be severable, and  
2 if any of its provisions or their application to particular facts  
3 or circumstances shall be held unconstitutional by a court of  
4 competent jurisdiction, the decision of such court shall not  
5 affect or impair any of the remaining provisions or their appli-  
6 cation to any other facts or circumstances.