



Bulletin

2007-03B

2006 LEGISLATION

TO: Local Officials

FROM: Gerard D. Perry, Deputy Commissioner
Division of Local Services

DATE: February 2007

SUBJECT: Summary of 2006 Municipal Finance Law Changes

To keep you informed of legislative developments during the year, the Division of Local Services publishes on a periodic basis a **BULLETIN** summarizing any new laws enacted that affect municipal budgets and local tax assessment, administration and collection. Each issue contains a cumulative summary of session laws enacted to that time and indicates whether the Division has issued or will issue any further implementation guidelines.

Attached is the **2006 edition** of the **LEGISLATIVE BULLETIN**. It includes any legislative changes affecting municipal finance found in Chapters 1 - 452 of the Acts of 2006.

Copies of these new laws can be obtained from the web site of the State Legislature: www.mass.gov/legis or the State Bookstore located in Room 116 of the State House.

2006 LEGISLATION

Ch. 38

COMMUNITY PRESERVATION FUND

An Act Expanding the Use of Community Preservation Funds. *Effective June 13, 2006.*

Amends the Community Preservation Act (CPA), G.L. c. 44B, which is a local acceptance statute that establishes a special fund with dedicated revenues to enable communities to expand or preserve their open space, historic, recreational and affordable housing assets. Specifically, it expands the definition of the term "historic resources" in G.L. c. 44B, §2 to include documents and artifacts. As a result, communities that adopt the act may now use CPA monies to acquire, preserve, rehabilitate or restore historic documents or artifacts, as well as historic buildings, vessels and real property. G.L. c. 44B, §5(b)(2).

Ch. 55

ACCIDENTAL DEATH BENEFITS FOR SURVIVING CHILDREN

An Act Increasing the Accidental Death Benefit Payable to Surviving Children. *Effective July 5, 2006.*

Amends the public employee retirement law to increase the base rate and establish a cost of living adjustment (COLA) in benefits currently provided to surviving minor, disabled and full-time student children (under age 22) of deceased employees who died while in the scope of their employment. Adds two subsections to G.L. c. 32, §9(2)(d), the first of which mandates the new additional base rate and COLA for the state and teachers' retirement systems. The second subsection allows other retirement systems the local option of adopting the increase and COLA. In both cases the base rate would be increased from \$312 per dependent to \$629.64 and the COLA would be based on the annual percentage COLA adopted by the Legislature and applicable to retirement benefits provided to retirees and their surviving spouses and dependents under G.L. c. 32, §102.

Local acceptance is by the local retirement board with the approval of the chief executive and legislative body as further defined in G.L. c. 32, §22(8)(C). Local acceptance is also further limited to those systems that had accepted the COLA for accidental disability supplemental benefits to such children.

See technical amendment made by St. 2006, c. 64 §3 below.

Ch. 64

FISCAL YEAR 2006 SUPPLEMENTAL BUDGET

An Act Making Appropriations for Fiscal Year 2006 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects. *Effective April 14, 2006.*

§3 Accidental Death Benefits for Surviving Children. Makes a technical amendment to G.L. c. 32, §9(2)(d) providing for expanded benefits for surviving minor, disabled and full-time student children (under age 22) of deceased employees who died while in the scope of their employment. See St. 2006, c. 55 above. For local retirement systems, the benefits are subject to local acceptance by the local retirement board with the approval of the chief executive and legislative body. The amendment provides that in a regional retirement system, the chief executive and legislative body means the regional retirement board advisory council.

Ch. 77

APPROPRIATION TRANSFERS

An Act Further Regulating Municipal Transfers of Appropriations. *Effective May 4, 2006.*

Amends G.L. c. 44, §33B, which governs appropriation transfers in cities and towns. It codifies temporary provisions of the Municipal Relief Act that gave cities and towns greater flexibility to make end of year budget transfers and avoid appropriation deficits. St. 2003, c. 46 §123. Those provisions applied for fiscal years 2004 and 2005 only. Under the new provisions, end of year budget transfers may be made by the selectmen, with the approval of the finance committee. In cities, the end of year transfers are still made by the city council upon the recommendation of the mayor, but any transfers from one department to another only require a majority vote of the council and no prior approval by the department from which the monies are being transferred. The alternative year-end transfer procedures apply for the last two months of the fiscal year, *i.e.*, May and June, and the first 15 days of July, which is the statutory period for closing the municipality's financial records for the fiscal year. G.L. c. 44, §§56 and 56A. They do not apply to transfers from the school and municipal light departments. **Informational Guideline Release (IGR) 06-209 issued May 2006.**

Ch. 79

MUNICIPAL BOARD MEETINGS

An Act Further Regulating Meetings of Municipal Boards. *Effective August 10, 2006.*

Adds a new local acceptance section to the general laws, G.L. c. 39, §23D, regarding the attendance of members of municipal boards at adjudicatory hearings. Under paragraph (a) of the new section, upon acceptance for one or more types of adjudicatory hearings, no member of a municipal board, committee or commission conducting such a hearing will be disqualified from voting on the matter solely because he or she was absent from no more than one session at which testimony or evidence was submitted, provided the member certifies in writing before the vote that he or she has examined all of the evidence submitted at the missed session. This could include listening to an audio tape, watching a video tape, or reading a transcript of the session. The written certification must be made part of the record of the hearing. These provisions do not change otherwise applicable quorum requirements. Paragraph (b) of the new section provides that a city or town may adopt by by-law or ordinance minimum additional requirements for the attendance of members of a board, committee or commission at these hearings. Acceptance is by majority vote of the municipal legislative body, subject to local charter. G.L. c. 4, §4.

Ch. 90

SCHOOL EMPLOYEE HEALTH INSURANCE

An Act Extending Eligibility for Health Insurance for School Employees. *Effective May 19, 2006.*

Amends G.L. c. 32B, §2 to extend eligibility for local government group health insurance plans during the months of July and August to all public school employees who are not actually employed during those months, provided their shares of the premiums are deducted from compensation paid for services rendered during the previous school year. Previously, the statute provided that teachers would be deemed to be employees during the summer months for health insurance purposes. This amendment extends the same benefit to all public school employees, such as cafeteria workers and custodians, who are not actually working during July and August.

Ch. 109

AFFORDABLE HOUSING TRUST FUNDS

An Act Further Regulating Municipal Housing Trust Funds. *Effective June 13, 2006.*

Makes several mostly technical amendments to G.L. c. 44, §55C, which authorizes cities and towns to establish affordable housing trusts. It now provides that acceptance of the statute is by majority vote of the municipal legislative body under G.L. c. 4, §4. Currently, acceptance in towns is limited to a vote of the annual town meeting. It also clarifies that if the chief executive officer of a municipality is a multi-member body, only one designee of that body need be a trustee of the trust. The current law requires that the chief executive be a member of the trustees, which means that in most towns the entire board of selectmen would have been trustees. The board of selectmen may now also appoint a town manager or administrator as a member or chairman of the board of trustees, with or without voting powers. Previously, the statute did not allow the appointing authority to designate the chairman, or to appoint non-voting members.

The amendments also clarify that a municipality can by by-law or ordinance limit the trustee powers expressly enumerated in the statute, and may similarly grant the trustees additional powers consistent with G.L. c. 44, §55C. Previously, it was uncertain how or even whether municipalities could further define or limit the trustees' powers.

The trustee's power to accept property and money now expressly includes the power to accept grants of community preservation funds. G.L. c. 44B. Previously, the statute contained a provision that appeared to authorize the community preservation committee to spend any money appropriated from the community preservation fund into the affordable housing trust. The section was ambiguous because G.L. c. 44B does not authorize the community preservation committee to spend money generally and it would have created concurrent spending authority in the trustees of the affordable housing trust and the community preservation committee.

Finally, a technical amendment was made to correct an erroneous reference to the conflict of interest law, G.L. c. 268A, rather than the tort claims act, G.L. c. 258. As a result, the trust rather than the city or town is the public employer for purposes of the tort claims act. This would generally shield municipalities from liability for tortuous actions of employees of affordable housing trusts.

Ch. 122 **FISCAL YEAR 2006 SUPPLEMENTAL BUDGET**
An Act Making Appropriations for Fiscal Year 2006 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects. *Effective June 24, 2006.*

§18 Bond Premiums. Amends G.L. c. 44, §20 to exempt communities that received bond premiums on or before July 31, 2003 from the requirement of that statute to adjust any Proposition 2½ debt exclusion for the borrowing to reflect the true interest cost.

§§19 and 20. Notice of Overdue Taxes and Charges. Gives cities and towns until fiscal year 2008 to include a notice of past due municipal taxes and charges on their property tax bills.

Ch. 123 **ECONOMIC STIMULUS**
An Act Relative to Economic Investments in the Commonwealth to Promote Job Creation, Economic Stability and Competitiveness in the Massachusetts Economy. *Effective June 24, 2006.*

§§35 and 48 Manufacturing Workforce Training Tax Increment Financing Exemption (MWT-TIF). Section 35 adds a new §60A to G.L. c. 40, creating a new tax increment financing exemption to promote manufacturing workforce training and the growth of pre-existing manufacturing facilities (MWT-TIF). The new TIF is modeled on G.L. c. 40, §§59 and 60, which provide for similar TIF exemptions to promote general economic development and affordable housing. The new exemption works the same way as the existing TIF exemptions. The community exempts some percentage up to 100% of the increased value of the property, after adjusting for inflation, from local property taxes for up to 20 years. TIF plans and agreements for new MWT-TIF exemptions require the approval of the state Economic Assistance Coordinating Council (EACC), which approves economic development TIFs under G.L. c. 40, §59. Section 48 amends Clause 51 of G.L. c. 59, §5, which provides the property tax exemption for economic development TIF parcels, to include the MWT-TIF as well.

§§42, 43, 44, 45, 46 and 47. Research and Development Corporations. Amend G.L. c. 59, §5, Clause 16(3) and (5) and Clause 16A, to create a local option personal property tax exemption for research and development (R & D) corporations and certain limited liability companies (LLCs) engaged in research and development that effectively treats them as manufacturing corporations for local property tax exemption purposes. Acceptance is by majority vote of the municipal legislative body, subject to local charter. G.L. c. 4, §4. **BULLETIN 2007-02B issued February 2007.**

Ch. 131 **CONSERVATION COMMISSION CONSULTANT FUNDS**
An Act Relative to the Authority of Conservation Commissions to
Impose Consultant Fees. *Effective September 11, 2006.*

Amends G.L. c. 44, §53G, to clarify that consultant fees imposed by a conservation commission on applicants for permits or determinations under its enabling statute, G.L. c. 40, §8C, the state Wetlands Protection Act, G.L. c. 131, §40, and local wetlands by-laws, may be deposited in a consultant fee revolving fund for use in assisting the commission review the applications.

Ch. 139 **FY2007 STATE BUDGET**
An Act Making Appropriations for the Fiscal Year 2007 for the
Maintenance of the Departments, Boards, Commissions, Institutions
and Certain Activities of the Commonwealth, for Interest, Sinking Fund
and Serial Bond Requirements and for Certain Permanent
Improvements. *Effective July 1, 2006.*

§3 Local Aid Advances. Authorizes the State Treasurer to advance payments of FY07 local aid distributions to a city, town, regional school district or independent agricultural and technical school that demonstrates an emergency cash shortfall, as certified by the Commissioner of Revenue and approved by the Secretary of Administration and Finance.

§41 Senior Property Tax Exemption. Creates a new local option property tax exemption, G.L. c. 59, §5, Clause 41C½, for the domiciles of seniors 70 or older, which if accepted would replace the Clause 41, 41B or 41C senior exemption currently used by the city or town. Acceptance is by referendum at a regular municipal election. The exemption would be 5% of the average assessed value of residential parcels in the city or town. As with the Clause 41B and 41C exemptions, taxpayers must be domiciled in Massachusetts for 10 years and have owned a domicile here for 5 years. However, there is no asset (whole estate) limit and the income (gross receipts) limit is tied to the senior circuit breaker state income tax credit limit for single persons who are not heads of households, which was \$45,000 for the 2005 state tax year. G.L. c. 62, §6(k). That limit increases each year by a cost of living adjustment factor and is generally higher than the maximum adjusted limit a community using Clause 41C could adopt. The municipality's legislative body can increase the exemption amount to up to 20% of the average assessed value of residential property, reduce the eligibility age to 65 and reduce the residency requirement to 5 years. **IGR 07-201 issued February 2007.**

§127 Education Reform Waivers. Permits cities, towns and regional school districts to apply for various adjustments in their FY2007 minimum required contributions to schools under the Education Reform Act. Municipalities may seek adjustments if (1) non-recurring revenues were used to support FY2006 operating budgets and those revenues are not available in FY2007, (2) they have extraordinary non-school related expenses in FY2007, or (3) their FY2007 municipal revenue growth factor is at least 1.5 times the statewide average and is deemed to be excessive. Regional school districts that used non-recurring revenues in FY2006 that are unavailable for FY2007 must seek waivers if a majority of the selectmen in a town, the city council in a Plan E city or the mayor in all other cities in a majority of the member municipalities requests them. If a regional school budget has already been approved by the members and a waiver is granted of any member's minimum required local contribution to the district, the use of that waiver must be approved by the selectmen, the city council in a Plan E city or the mayor in all other cities of a majority of the member municipalities. Requests for waivers must be made by October 1, 2006. **IGR 06-301 issued July 2006.**

Ch. 205

EXPEDITED PERMITTING FEES AND REVOLVING FUND
An Act Relative to Streamlining and Expediting the Permitting Process in the Commonwealth. *Effective August 2, 2006.*

Section 11 amends General Laws, Chapter 43D, which was enacted in 2004 to allow communities to adopt procedures to expedite local permitting and zoning decisions. Rather than designating an office as the single contact for coordinating and facilitating expedited reviews of permits for all projects, the revised chapter allows cities and towns that accept it to designate priority development sites, including smart growth locations, for expedited permitting procedures.

It retains a provision that allows the municipality to charge a fee, in addition to any permit or consultant fees that would otherwise be charged, to defray the expenses associated with carrying out its duties under the chapter. The fees may be set by the municipality's governing body, which is defined as the board of selectmen in a town, city manager and city council in cities with Plan D or E charters, and the mayor and city council in all other cities. The fees are to be credited to a separate fund that may be spent by the governing body without appropriation. Interest earned on the fees belongs to the revolving fund. The special fee and fund is now found in Section 6(b) of the amended G.L. c. 43D.

Ch. 231 **SEWER ASSESSMENTS**

An Act Regulating the Redetermination of Municipal Sewer Assessments. *Effective August 9, 2006.*

Makes a technical amendment to G.L. c. 83, §15A, which allows a city or town to redetermine the rate used to allocate sewer construction costs against abutters as sewer betterments. Under G.L. c. 83, §15, cities and towns can assess sewer construction costs using a uniform rate method (by front footage, valuation, etc.) or by the now more commonly used uniform unit method (number of actual and potential residential units or residential equivalent units based on current zoning). The uniform unit method was added as an allowable assessment method in 1978, but §15A was not amended to reflect the change at that time.

Ch. 260 **VETERAN TAX EXEMPTIONS**

An Act Establishing the Massachusetts Military Enhanced Relief Individual Tax (MERIT) Plan. *Effective November 12, 2006.*

Expands eligibility for two local property tax exemptions for disabled veterans, increases the amount of all exemptions for those veterans and increases the Commonwealth's reimbursement to communities granting the exemptions. G.L. c. 59, §5, Clauses 22, 22A, 22B, 22C, 22D and 22E.

First, it makes a technical correction that allows the Clause 22E exemption for a veteran who has a 100% disability rating and is unable to work to be granted if title to the veteran's domicile is held in the name of the spouse. This makes Clause 22E consistent with the provisions of Clauses 22A, 22B and 22C. Previously, the spouse would have only qualified for a lesser exemption benefit under Clause 22.

In addition, it expands the definition of eligible recipients of Clause 22D to the surviving spouses of soldiers, sailors or members of the National Guard whose death was a direct result of an injury or disease as a result of being in a combat zone or who have been classified as missing in action as a result of combat. The surviving spouses will receive a full exemption of their property taxes for five years, with the exemption capped at \$2,500 in years thereafter. The Commonwealth will fully reimburse cities and towns for the exemptions granted. Previously, the exemption under Clause 22D was \$250 and was limited to surviving spouses of soldiers or sailors who lost their lives in combat at the islands of Quemoy and Matsu.

The increased exemption and reimbursement amounts for the other property tax exemptions for veterans are:

Clause	Current		New	
	Exemption	State Reimbursement	Exemption	State Reimbursement
22(a-f)	\$250	\$ 75	\$400	\$225
22A	425	250	750	575
22B	775	600	1,250	1,075
22C	950	775	1,500	1,325
22E	600	425	1,000	825

The act also makes all peacetime and wartime veterans as defined in G.L. c. 4, §7 eligible for the motor vehicle excise exemptions provided to veterans with certain disabilities under G.L. c. 60A, §1. Previously, the exemptions were limited to veterans of certain wars. In addition, veterans who are determined to be permanently disabled by the Medical Advisory Board within the Registry of Motor Vehicles for the purpose of issuing disabled veteran license plates will now be eligible for an excise exemption. G.L. c. 90, §8C. Those veterans who have been determined disabled by the board and have been issued a disabled veteran's license plate will also qualify for a sales tax exemption on their purchases of motor vehicles under G.L. c. 64, §6(u). Previously, only veterans with certain defined disabilities qualified for excise and sales tax exemptions.

Finally, the act creates a new local option statute, G.L. c. 59, §5L, that allows Massachusetts National guardsmen and reservists deployed outside the state to defer paying their taxes without interest or penalties until 180 days after that service. It is patterned after a provision of the federal Servicemembers Civil Relief Act under which active duty personnel, including guardsmen called to Federal service and activated reservists, can defer payment of federal, state or local income taxes interest and penalty free up to 180 days after termination or release from service. 50 U.S.C. App. 570. Under the federal act, there is no comparable deferral for payment of real and personal property taxes, however, although collection activities are stayed and interest runs at 6% with no other penalties allowed. 50 U.S.C. App. §561. Acceptance is by majority vote of the municipal legislative body, subject to local charter. G.L. c. 4, §4.

BULLETIN 2006-14B issued September 2006. But see c. 310 §§9, 33, 34 and 35 below and superseding BULLETIN 2006-15B issued October 2006 for amendments that (1) make surviving spouses eligible for a full exemption under Clause 22D for the first five years they receive the exemption rather than five years from the date of the servicemember's death and (2) establish the effective dates of the property tax and motor vehicle excise exemption changes.

Ch. 271 **STATE MINIMUM WAGE**

An Act Increasing the Minimum Wage. *Effective July 31, 2006.*

Increases the state's minimum wage to \$7.50 as of January 1, 2007 and to \$8.00 as of January 1, 2008. G.L. c. 151, §1. In a city or town that has accepted G.L. c. 59, §5K, the senior work abatement program, the state minimum wage is the maximum hourly wage that it may pay participants in its program. The state minimum wage does not otherwise apply to municipal employees.

Ch. 289 **COMMUNITY PRESERVATION FUND**

An Act Relative to the Community Preservation Act. *Effective December 5, 2006.*

Amends the Community Preservation Act (CPA), G.L. c. 44B, §5(b)(2), to make acquisition of affordable housing a purpose for which community preservation fund monies may be spent. Under current law, communities may use fund monies for the creation, preservation or support of affordable housing, or the rehabilitation or restoration of affordable housing acquired or created with fund monies. The change clarifies that a municipality can use fund monies to acquire affordable housing restrictions or units. While those uses could be considered allowable creation or support of affordable housing, a fee or other interest in real property is acquired by the municipality, and since the CPA expressly allows fund monies to be used to acquire such interests for open space, historic or recreational purposes, there had been some uncertainty about whether use of fund monies to acquire them for affordable housing purposes was allowable. The amendment does not completely resolve the related uncertainty regarding the use of fund monies as grants to housing authorities to acquire affordable housing restrictions or units, as the CPA still requires that any real property acquired with fund monies be owned by the municipality. G.L. c. 44B, §12(b).

Ch. 293 **ECONOMIC DEVELOPMENT**

An Act Relative to the Economic Development of the Commonwealth. *Effective September 7, 2006.*

§§5-12 Infrastructure Development and Financing. Provide for a limited program to facilitate the financing and construction of public infrastructure to support private economic development projects. The program is limited to five projects (and no more than two in any one municipality) in a total amount not to exceed \$200,000,000 that must be approved by January 1, 2012.

The Massachusetts Development Finance Agency (MDFA) would issue revenue bonds to finance the infrastructure, which can include streets, sidewalks, water, sewer, parking, etc, and will be installed by the private developer as part of the development project. Once the project is completed, the developer will turn the infrastructure over to the municipality. The debt service on the bonds will be paid solely from (1) local infrastructure assessments before the completion and occupancy of the development project and (2) state infrastructure development assistance thereafter. Neither the full faith and credit, nor the taxing power, of the state or the city or town is pledged to payment of the debt service.

The developer will be assessed annual local infrastructure assessments on project parcels as necessary to cover infrastructure debt service in each year before occupancy and the commencement of state assistance. The local infrastructure assessments will be collected and secured in the same manner as property taxes, betterments and other special assessments owed to the municipality, *i.e.*, by liens on the parcels and will generally be subject to the same administrative and collection provisions as other betterments and special assessments municipalities can assess to recover public improvement construction costs they incur. Property tax liens will have priority over the assessments, which is generally the case with respect to liens for betterments and special assessments. Monies from the assessments will be paid over to the state.

Once the project is occupied, the debt will be financed by state infrastructure development assistance, which is based on growth in state income, sales, meals and hotel excise revenues attributable to the development. If the developer does not complete the project, or the revenue targets are not met, the city or town must absorb the shortfall and cover the debt service by payments of local infrastructure assistance. These payments are general obligations of the municipality and can be enforced by deductions from the municipality's local aid distributions.

Participation in an economic development proposal under this program requires a two-thirds vote of the municipality's governing body. A public hearing must be held on the proposal before the municipality acts on it. Each proposal must include an analysis of the new state revenues to be generated as a result of the commercial components of the development. Once the proposal is approved the municipality, the municipality and developer submits it to MDFA and the Secretary of Administration and

Finance. The secretary has 60 days to approve, disapprove, request additional information or request an amendment. As part of the review process, the Department of Revenue must certify that the projected new state tax revenues will be sufficient to cover the debt service on the bonds. **Technical Information Release (TIR) 06-26 issued December 2006.**

Ch. 310

FISCAL YEAR 2006 SUPPLEMENTAL BUDGET

An Act Making Appropriations for Fiscal Year 2006 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects. *Effective October 5, 2006, unless otherwise noted.*

§§9, 33, 34 and 35 Veteran Tax Exemptions. Make technical amendments to St. 2006, c. 260, the Edward G. Connolly Massachusetts Military Enhanced Relief Individual Tax (MERIT) Plan, which expands eligibility for or the amount of property tax, motor vehicle excise and sales tax exemptions available to veterans with service-connected disabilities.

Section 9 amends the expanded exemption provided for surviving spouses of service members and National Guardsmen who are killed or die as a result of combat, to give a full exemption to any qualifying surviving spouse for the first five years he or she applies, rather than for the five years after the service member's death. The change means surviving spouses of service members who died in earlier wartime eras, *e.g.*, Viet Nam or Persian Gulf, will also get a full exemption for at least five years. After the first five years, the exemption is capped at \$2,500 a year.

Section 33 clarifies that the property tax exemption changes are to go into effect for FY07. As a technical matter, the exemption changes would not have applied until FY08 because c. 260 was enacted after July 1, 2006, did not have an emergency preamble and did not contain language expressly making the property tax exemption changes retroactive to July 1, 2006, the qualification date for FY07 exemptions. Motor vehicle excises are assessed on a calendar year basis and Section 34 clarifies that the expanded exemption eligibility takes effect beginning in the 2007 tax year. Section 35 makes the expanded sales tax exemption effective on November 1, 2006. It would have otherwise gone into effect on November 12, 2006. **BULLETIN 2006-15B issued October 2006 (supersedes BULLETIN 2006-14B issued September 2006).**

Ch. 341 **CONSTABLE FEES**

An Act Modifying the Schedule For Deposits of Revenue for the Service of Civil Process by Constables. *Effective November 1, 2006.*

Amends G.L. c. 41, §95A, which requires constables to turn over each month to the municipal treasurer 25% of all civil process fees collected the previous month. The amendments clarify that the turnover is to be made to the treasurer of the municipality in which the constable is elected or appointed. In addition, the turnover will now be made on a quarterly basis with payment due January 15, April 15, July 15 and October 15. If the amount to be paid on a scheduled date is less than \$500, the constable does not have to make the turnover until October 15, or other quarterly due date when the receipts equal or exceed \$500, whichever is earlier.

Ch. 354 **TAX TITLE PAYMENT PLANS**

An Act Further Regulating Payment Agreements for Local Taxes. *Effective February 7, 2007.*

Amends G.L. c. 60, §62, which deals with the redemption of real property in tax title for delinquent municipal taxes and other charges, in order to give treasurers greater flexibility in working out reasonable payment plans with delinquent taxpayers. Under current law, a taxpayer making a partial payment must pay at least 25% of the full amount needed to redeem the tax title. The amendment would eliminate any minimum partial payment. In addition, a treasurer accepting a partial payment will be able to extend by two years the period within which foreclosure proceedings cannot be initiated. Under G.L. c. 60, §65, that period is generally six months after the tax taking. Currently, any extension is limited to one year.

Ch. 393 **COMMUNITY PRESERVATION SURCHARGE EXEMPTIONS**

An Act Regulating Exemptions for Cooperative Corporations Under the Community Preservation Act. *Effective March 22, 2007.*

Adds a local acceptance provision, paragraph (i), to Section 3 of G.L. c. 44B, the Community Preservation Act (CPA). If G.L. c. 44B, §3(i) is accepted, units leased to members of housing cooperatives and occupied as their domiciles will be considered owned by the members solely for the purpose of allowing them to benefit from CPA surcharge exemptions adopted by the community if they otherwise qualify for the exemption.

Ordinarily, occupants of a cooperative housing development are not eligible for any property tax or CPA surcharge exemptions because units in a cooperative are not individually owned and taxed like condominium units. G.L. c. 183A, §14. The property is owned by the cooperative housing corporation, not the occupants, and is assessed to the corporation as a single unit. This legislation gives communities the same option to treat cooperative members' units as owned by the members for purposes of CPA exemptions that they have for personal and residential exemptions from property taxes. G.L. c. 59, §5, Clause 55 and §5C. The portion of the property considered owned by a member would be the same proportion the member's share of stock in the cooperative bears to the total outstanding stock of the corporation. If accepted, any surcharge exemption the member qualifies for on his or her "property" will be credited to that portion of the surcharge assessed to the cooperative that the member would otherwise owe. Acceptance is by majority vote of the municipal legislative body, subject to local charter. G.L. c. 4, §4.

Ch. 394

CLASSIFIED FOREST, FARM AND RECREATIONAL LAND.
An Act Relative to the Taxation of Forest, Farm and Recreation Land.
Effective March 22, 2007.

Makes several changes to the laws that provide special property tax treatment for qualifying forest, farm and recreational land. G.L. c. 61, Classification and Taxation of Forest Lands and Forest Products; G.L. c. 61A, Classification and Taxation of Agricultural and Horticultural Lands; G.L. c. 61B, Classification and Taxation of Recreational Land. Classified land used for qualifying forest, farm and recreational uses is valued for local property tax purposes based on its current use, rather than its full and fair cash value (at its highest and best use). In addition to reduced property taxes, classified land is entitled to certain special benefits regarding the assessment of betterments. Owners of classified land who sell it for, or convert it to, other uses are subject to penalty taxes, which provide for a recapture by a municipality of tax benefits of certain prior years. In addition, any sale or conversion of classified land for development by the landowner triggers a right of first refusal in the municipality to match a bona fide offer if being sold, or pay fair market value based on an impartial appraisal if being converted.

First, the act adds local option sections to each of the three chapters that if accepted, will include land classified under that chapter in the definition of Class two, open space under G.L. c. 59, §2A, which defines the four classes of real property (residential, open space, commercial and

industrial). G.L. c. 61, §2A; G.L. c. 61A, §4A; G.L. c. 61B, §2A. Currently, classified lands are included in the definition of Class three, commercial property. These changes will allow communities that shift the property tax burden by using different tax rates for residential and business properties to opt to place classified land in the Class two, open space category. As a result, the classified land would not only have the tax benefit of reduced valuations, but would also further benefit from having that reduced value taxed at the lower residential and open space tax rate. As Class two, open space, classified properties may also receive an "open space discount" if a discount is used in the community. Acceptance is by majority vote of the municipal legislative body, subject to local charter. G.L. c. 4, §4.

Second, the act changes the annual taxation of Chapter 61 forest land parcels. As with agricultural and horticultural land classified under Chapter 61A, assessors will now assess the property at its current use value after giving consideration to the ranges of use value recommended by the Farmland Valuation Advisory Commission (G.L. c. 61A, §11), which must now establish such ranges for forest as well as farm uses. The Commissioner of the Department of Conservation and Recreation, which includes the State Forester, has been added as a member of the commission. Currently, classified forest land is assessed at 5% of fair cash value and landowners are subject to an 8% products tax when timber is cut from the land. The products tax is repealed.

Third, the act eliminates the "withdrawal" penalty tax assessed under G.L. c. 61, §7 and replaces it with conveyance and roll-back penalty tax provisions similar to those under Chapters 61A and 61B. Currently, a landowner who does not renew the 10-year forest classification plan is assessed a withdrawal tax even if the owner continues to maintain the land as forest or seeks to have the property classified under Chapter 61A or 61B instead. Both Chapters 61A and 61B have a "conveyance" and "roll-back" tax, which serve as alternative penalties and are assessed upon a change in use or sale for another use. The applicable tax depends on a number of factors including how long the person has owned the property and how long it has been classified. The act standardizes the penalty tax provisions for all three chapters so that each has a conveyance tax and a 5-year recapture period for the roll-back tax. Previously, the roll-back recapture period for Chapter 61B was 10 years. The computation of interest on any roll-back tax assessed is standardized and simplified, with a simple interest rate of 5% per year adopted for each chapter instead of the current inconsistent provisions among the three chapters.

Landowners may now make a penalty tax free transfer of classified land to another chapter if the land also qualifies for classification under that statute. Acquisitions of classified parcels for a natural resource purpose by the city or town, the commonwealth or a nonprofit conservation organization are exempted from penalty taxes, but if the non-profit conservation organization turns the land over for development within 5 years of the acquisition, the tax will then become due. Forest land classified under Chapter 61 before the filing date immediately after the effective date of the act is not subject to the new conveyance tax provisions until the land has been transferred to another owner.

Fourth, the act clarifies the assessment of betterments on classified land and makes the betterment provisions uniform in all three chapters. Classified parcels are subject to betterment assessments only to the extent that the betterment supports the forestry, farm or recreational use of the land. Additionally, the assessment is suspended while the land is so used, and only becomes due upon a later change in use.

Fifth, the act makes significant changes in the "first refusal option" that applies when a landowner decides to sell classified land for, or convert it to, a residential, commercial or industrial use and makes the option provision uniform in all three chapters. It extends the operation of the first refusal option for one full tax year after a property is removed from classification. Currently, it only applies while the property is classified. This protects the municipality's opportunity for acquisition in the event the landowner removes the land from classification and immediately decides to develop the land. It also spells out in greater detail than in current law the notices required, the definition of a bona fide offer and the appraisal procedures that apply in cases of conversion.

Finally, the act expands the definition of recreational land for Chapter 61B to include land in a pasture condition, a managed forest condition under a certified forest management plan, and land used for commercial horseback riding and equine boarding. Forest land under Chapter 61 may now include accessory land as determined by the state forester.

An IGR will be issued on this legislation.

Last Act: Chapter 452 approved by the Governor on January 3, 2007.