
ACTS, 1986. – Chap. 73.

SECTION 7. Civil Remedies. (a) Any person who demands, accepts, receives, or retains any payment of rent in excess of the amount authorized by the board during the one-year effective period provided in paragraph (e) of section five shall be liable to the person from whom such payment is demanded, accepted, received, or retained for reasonable attorney's fees and costs as determined by the court, plus liquidated damages in the amount of four hundred dollars.

(b) The board shall be authorized to seek enforcement of its orders in the Northampton division of the district court department of the trial court.

SECTION 8. Evictions. (a) Any landlord of residential property within the town of Amherst which is not exempt under the provisions of section three or under the by-law established hereunder may not file a summary process complaint against a tenant for a period of one year after the tenant has filed a petition with the board except pursuant to paragraph (c) of this section.

(b) The filing of a summary process complaint against a tenant within the one year period following the filing of a petition by the tenant with the board shall create a rebuttable presumption of reprisal within the meaning of section eighteen of chapter one hundred and eighty-six and section two A of chapter two hundred and thirty-nine of the General Laws.

(c) The presumption of paragraph (b) of this section shall be rebutted only by clear and convincing evidence that the landlord's action was not a reprisal against the tenant and that the landlord had sufficient independent justification for taking such action, and would have in fact taken such action, in the same manner and at the same time the action was taken, regardless of the tenant having filed a petition with the board.

SECTION 9. The action taken at the special town meeting of the town of Amherst held on February twenty-sixth, nineteen hundred and eighty-six on Article 4, adding a new by-law establishing a housing review board is hereby validated, ratified and confirmed as if this act was in effect at said time.

SECTION 10. Chapter seven hundred and six of the acts of nineteen hundred and eighty-five is hereby repealed.

SECTION 11. This act shall take effect upon its passage.

Approved June 6, 1986.

Chapter 73. AN ACT PROVIDING RELIEF FROM THE IMPACT OF REVALUATION.

Be it enacted, etc., as follows:

SECTION 1. Section 5 of chapter 59 of the General Laws, as

appearing in the 1984 Official Edition, is hereby amended by inserting after clause Seventeenth C the following clause:–

Seventeenth D. Real estate, to the taxable valuation of two thousand dollars or the sum of one hundred and seventy-five dollars, whichever would result in an abatement of the greater amount of actual taxes due, of a surviving spouse or of any minor whose parent is deceased, occupied by such spouse, or minor as her or his domicile, or a person or persons over the age of seventy who has owned and occupied it as a domicile for not less than five years; provided, that the whole estate, real and personal, of such spouse, person or minor does not exceed in value the sum of forty thousand dollars provided that the real property occupied by such person as his or her domicile shall not be included in computing the whole estate, except for any portion of said real property which produces income and exceeds two dwelling units, exclusive of property otherwise exempt under clauses Twelfth, Twentieth and Twenty-first, exclusive of the value of the mortgage interest held by persons other than the person or persons to be exempted in such mortgaged real estate as may be included in such whole estate.

No real estate shall be so exempt which the assessors shall adjudge has been conveyed to such spouse, person or minor to evade taxation. A spouse, person or minor aggrieved by any such judgment may appeal to the county commissioners or to the appellate tax board within the time and in such manner allowed by section sixty-four or sixty-five, as the case may be. Any exemption under this clause, to the taxable valuation of two thousand dollars or the sum of one hundred and seventy-five dollars, whichever would result in an abatement of the greater amount of actual taxes due may be apportioned among the persons whose title to the real estate was acquired under the provisions of section three of chapter one hundred and ninety and who qualify for an exemption under this clause. This clause shall take effect in any city or town upon its acceptance by such city or town for fiscal years commencing on or after July first, nineteen hundred and eighty-six, or for fiscal years commencing on or after such later July first as the city or town may elect. In those cities and towns which accept the provisions of this clause, the provisions of clauses Seventeenth and Seventeenth C shall not be applicable; provided, however, that the state treasurer shall annually reimburse the city or town an amount equal to the reimbursement granted to such city or town under said clause Seventeenth for the most recent fiscal year in which it received such reimbursement.

SECTION 2. Clause Forty-first of said section 5 of said chapter 59, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:–

Any amount of money annually appropriated by the commonwealth for the purpose of reimbursing cities and towns for taxes abated under this clause, clause Forty-first B, and clause Forty-first C shall be distributed as hereinafter provided. The commissioner of revenue shall divide said sum by the number of exemptions under this clause, clause Forty-first B, and clause Forty-first C granted in the preceding fiscal

year and distribute to each city and town a pro rata share of said sum based upon the number of such exemptions granted in each city and town. If a city or town has elected to grant exemptions under clause Forty-first B or clause Forty-first C in lieu of this clause, the number of exemptions granted in such city or town, for purposes of this computation, shall not exceed the number of exemptions granted under this clause in such city or town in the most recent fiscal year in which such exemptions under this clause were granted.

SECTION 3. Said section 5 of said chapter 59 is hereby further amended by inserting after clause Forty-first B the following clause:–

Forty-first C, Real Property, to the amount of four thousand dollars of taxable valuation or the sum of five hundred dollars, whichever would amount in an exemption of the greater amount of taxes due, of a person who has reached his seventieth birthday prior to the fiscal year for which an exemption is sought and occupied by said person as his domicile, or of a person who owns the same jointly with his spouse, either of whom has reached his seventieth birthday prior to the fiscal year for which an exemption is sought and occupied by them as their domicile, or for a person who has reached his seventieth birthday prior to the fiscal year for which an exemption is sought who owns the same jointly or as a tenant in common with a person not his spouse and occupied by him as his domicile; provided: (A) that such person (1) has been domiciled in the commonwealth for the preceding ten years, (2) has so owned and occupied such real property or other real property in the commonwealth for five years, or (3) is a surviving spouse who inherits such real property and has occupied such real property in the commonwealth five years and who otherwise qualified under this clause; (B) that such person had, in the preceding year gross receipts from all sources of less than thirteen thousand dollars, or if married, combined gross receipts with his spouse of less than fifteen thousand dollars, provided, however, that in computing the gross receipts of an applicant under this clause ordinary business expenses and losses may be deducted, but not personal or family expenses; and provided, further, that there shall be deducted from the total amount received by the applicant under the federal social security or railroad retirement and from any annuity, pension, or retirement plan established for employees of the United States government, the government of the commonwealth, or the government of any city, town, county, or special district, included in such gross receipts, an amount equivalent to the minimum payment then payable under said federal social security law, as determined by the commissioner of revenue, to a retired worker seventy years of age or over, if the applicant is unmarried, or to a retired worker and spouse, both of whom are seventy years of age or over, if the applicant is married; and (C) that such person had a whole estate, real and personal, not in excess of twenty-eight thousand dollars, or if married, not in excess of thirty thousand dollars, provided that real property occupied as his domicile

shall not be included in computing the whole estate except for any portion of said property which produces income and exceeds two dwelling units. In the case of real property owned by a person jointly or as a tenant in common with a person not his spouse, the amount of his exemption under this clause shall be that proportion of four thousand dollars valuation or the sum of five hundred dollars, whichever would result in an exemption of the greater amount of taxes due, which the amount of his interest in such property bears to the whole tax due, provided: (A) that no exemption shall be granted to any joint tenant or tenant in common unless the gross receipts from all sources whatsoever of each joint tenant or tenant in common is less than thirteen thousand dollars or, if married, the combined gross receipts from all sources whatsoever, of each joint tenant or tenant in common and his spouse is less than fifteen thousand dollars, provided, however, that in computing the gross receipts of an applicant under this clause ordinary business expenses and losses may be deducted, but not personal or family expenses; and provided, further, that there shall be deducted from the total amount received by the applicant under the federal social security or railroad retirement and from any annuity, pension, or retirement plan established for employees of the United States government, the government of the commonwealth, or the government of any city, town, county, or special district, included in such receipts, an amount equivalent to the minimum payment then payable under said federal social security law, as determined by the commissioner of revenue, to a retired worker seventy years of age or over, if the applicant is unmarried, or to a retired worker and spouse, both of whom are seventy years of age or over, if the applicant is married; and (B) that the combined whole estate, real and personal, of each joint tenant or tenant in common is less than twenty-eight thousand dollars or, if married, the combined whole estate, real and personal of each joint tenant or tenant in common and his spouse does not exceed thirty thousand dollars, provided that real property occupied as their domicile shall not be included in computing the whole estate except for any portion of said property which produces income and exceeds two dwelling units. No proportion of the exemption shall be denied to any applicant otherwise qualified for the reason that another joint tenant or tenant in common receives a proportion of the total exemption. Household furnishings and property already exempt under the clauses Twelfth, Twentieth, Thirty-first, and Thirty-fifth shall not be included in computing the whole estate for purposes of this section. Where a portion of the real property occupied as a domicile of an applicant under this clause is located within a municipality other than the municipality in which the applicant is domiciled, and where the value of said property, or the taxes, assessed by the municipality in which such applicant is domiciled would result in his receiving less than the maximum exemption provided by this clause, that part of the property of such applicant within such other municipality shall be exempt to a value, or to an amount of tax, sufficient to grant the applicant the total maximum exemption provided by the clause.

ACTS, 1986. – Chap. 73.

This clause shall take effect in any city or town upon its acceptance by such city or town for fiscal years commencing on or after July first, nineteen hundred and eighty-six, or for fiscal years commencing on or after such later July first as the city or town may elect. In those cities and towns which accept the provisions of this clause, the provisions of clause Forty-first and Forty-first B shall not be applicable; provided, however, that any amount of money annually appropriated by the commonwealth for the purpose of reimbursing cities and towns for taxes abated under this clause, clause Forty-first and clause Forty-first B shall be distributed as provided in said clause Forty-first.

SECTION 4. Notwithstanding any general or special law to the contrary, in each city or town certified by the commissioner of revenue to be assessing all property at full and fair market value, upon acceptance by the local appropriating authority, as hereinafter defined, a taxpayer who shall otherwise qualify for an exemption under clauses Seventeenth, Seventeenth C, Seventeenth D, Twenty-second, Twenty-second A, Twenty-second B, Twenty-second C, Twenty-second D, Twenty-second E, Thirty-seventh, Thirty-seventh A, Forty-first, Forty-first B, Forty-first C, Forty-second or Forty-third of section five of chapter fifty-nine of the General Laws shall be entitled to an additional exemption which shall be uniform for all exemptions and none of which shall exceed one hundred per cent of said exemption for which he qualifies; provided, however, that in no instance shall the taxable valuation of such property, after all applicable exemptions, be reduced below ten per cent of its full and fair cash valuation except through the application of section eight A of chapter fifty-eight or clause Eighteenth of section five of chapter fifty-nine of the General Laws; and provided, further, that the additional exemption shall not result in any taxpayer paying less than the taxes paid in the preceding fiscal year except through the application of section eight A of chapter fifty-eight or clause Eighteenth of section five of chapter fifty-nine of the General Laws. For the purposes of this section, the term "local appropriating authority" shall mean the board of selectmen in a town; the mayor, with the approval of the city council, in a city; and the town council in a municipality having such form of government. The local appropriating authority may elect to apply the provisions of this section in any fiscal year commencing on or after July first, nineteen hundred and eighty-five. The state treasurer shall annually reimburse a city or town which accepts this section only for the amount which otherwise would have been reimbursed under the respective clause had this section not been accepted by said city or town.

SECTION 5. Notwithstanding any general or special law to the contrary, in any city or town which properly accepts the provisions of sections one, three, or four of this act, no city or town tax rate for fiscal year nineteen hundred and eighty-six or thereafter which has not been approved by the commissioner of revenue pursuant to section

ACTS, 1986. – Chaps. 74, 75.

twenty-three of chapter fifty-nine of the General Laws prior to the effective date of this act shall be so approved unless said commissioner certifies that sufficient sums have been provided by the city or town to cover the costs of the locally accepted provisions. The requirements of this paragraph shall apply to all cities and towns for fiscal years beginning on or after July first, nineteen hundred and eighty-five.

Notwithstanding any general or special law to the contrary, any city or town which has properly accepted the provisions of sections one, three, or four of this act shall allow taxpayers, in the year of such acceptance, an additional forty-five days from the date of such acceptance to file applications for exemption thereunder; provided, however, that if any other general or special law would allow a later date for submission of said applications, that later date shall apply. The commissioner of revenue shall promulgate any necessary rules or regulations to ensure that all other time requirements of any general or special law inconsistent herewith conforms with the provisions of this section.

SECTION 6. The provisions of this act shall take effect upon its passage and shall apply to all fiscal years beginning on or after July first, nineteen hundred and eighty-five.

Approved June 9, 1986.

EMERGENCY LETTER: – June 10, 1986 @ 10:34 A.M.

Chapter 74. AN ACT EXEMPTING THE POSITION OF DIRECTOR OF PUBLIC HEALTH IN THE TOWN OF BILLERICA FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.

Be it enacted, etc., as follows:

SECTION 1. The position of director of public health in the town of Billerica shall be exempt from the provisions of chapter thirty-one of the General Laws.

SECTION 2. The provisions of section one shall not impair the civil service status of any incumbent holding the position of director of public health in the town of Billerica on the effective date of this act.

SECTION 3. This act shall take effect upon its passage.

Approved June 10, 1986.

Chapter 75. AN ACT AUTHORIZING THE CITY OF PITTSFIELD TO LEASE A PARCEL OF LAND FOR THE PURPOSE OF CONSTRUCTING A MICROWAVE TRANSMISSION TOWER AND ACCESSORY FACILITY.