

By Mr. Marzilli of Arlington, petition of J. James Marzilli, Jr., and other members of the General Court for legislation to provide assistance to low and moderate income property taxpayers in the Commonwealth. Taxation.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Four.

AN ACT TO PROVIDE ASSISTANCE TO LOW- AND MODERATE-INCOME PROPERTY TAXPAYERS.

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 fourteen of the General Laws is hereby amended by
2 adding the following section eight after section seven: —

3 There is hereby established a so-called circuit-breaker program
4 to provide income assistance to low- and moderate-income
5 homeowners and renters residing within the commonwealth; that
6 the level of benefits claimed under this section shall be based on
7 both property tax payments and on household income; and that
8 benefits extend to tenants as well as owners of residential property.
9 All provisions of the General Laws relative to the administration
10 of taxes levied under chapter sixty-two, so far as pertinent shall
11 apply to claims for assistance under this section.

12 Whenever used in this section, the following words and terms
13 shall have the following meanings: —

14 (a) "Claimant," an individual who has filed for relief under this
15 section.

16 (b) "Commissioner," the commissioner of revenue as defined
17 in section four (a) of chapter seven of the General Laws.

18 (c) "Household," a family unit or other group living in a single
19 residence, sharing the furnishings, facilities, and accommoda-
20 tions, not including lessees, tenants, or boarders on contract.

21 (d) "Household income," the total combined Massachusetts
22 gross income, as defined by section two of chapter sixty-two and

23 as hereinafter modified, of all members of the household during
24 the preceding calendar year, increased by the total amount of
25 income and receipts from social security, retirement, pension, or
26 disability benefits and annuities, workmen's and unemployment
27 compensation, cash public assistance, tax exempt interest and
28 dividends, capital gains defined in chapter sixty-two, section two,
29 paragraph (b) and (c), clause the third, income from a partnership
30 or trust not included therein and gross receipts from any other
31 source other than the assistance received under this section, and
32 reduced by ordinary business expenses and losses, but not
33 personal or family expenses, and income shall be reduced by the
34 total amount of the exemptions to which members of the
35 household would be entitled under clauses (1) to (4), inclusive,
36 of subdivision (b) of subsection (B) of section three of chapter
37 sixty-two. The income of persons who were members of the
38 household for less than twelve months of the preceding calendar
39 year shall be included only for the period that such persons were
40 members of the household.

41 (e) "Preceding calendar year," the calendar year immediately
42 preceding the calendar year during which the claim for assistance
43 is filed.

44 (f) "Real estate tax payment," the real estate tax levied pursuant
45 to chapter fifty-nine of the General Laws on the residence of a
46 household and actually paid by the claimant during the preceding
47 calendar year, either individually or in conjunction with other
48 household members, exclusive of special assessments and
49 delinquent interest, and less any abatement granted. The real
50 estate tax payment shall include the tax paid on the building
51 containing the residence and adjoining land, except that in the
52 case of a multi-unit dwelling containing more than four dwelling
53 units, a land area in excess of one acre, or a multi-purpose building
54 or land area, the real estate tax payment shall constitute the real
55 estate tax levied and paid on the entire building or area, multiplied
56 by a fraction the numerator of which is the actual value of the
57 portion of the larger area or building used and occupied as the
58 residence of the household, and the denominator of which is the
59 actual value of the larger area of building.

60 (g) "Rent constituting real estate tax payment," twenty percent
61 of the rent actually paid by a claimant, either individually or in

62 conjunction with other members of the household, under a good
63 faith rental agreement, for the right of occupancy of the residence
64 during the preceding calendar year or portion thereof. The rental
65 agreement shall not be deemed to be a good faith rental agreement
66 if it was entered into or if the amount of rent was agreed upon
67 for the sole purpose of obtaining or increasing the amount
68 available to the claimant under this section.

69 (h) "Residence," the building or portion thereof, including a
70 mobile home, owned or rented and actually occupied by the
71 claimant's household as its primary dwelling during the preceding
72 calendar year, and located within the commonwealth, together
73 with so much of the land surrounding it, not to exceed one acre,
74 as is reasonably necessary to the use of the dwelling as a home.
75 A residence may consist of a part of a multi-unit or multi-purpose
76 building.

77 (i) "Treasurer," the state treasurer.

78 (j) "Consumer price index," for a given year, the consumer price
79 index for all urban consumers in the Boston metropolitan area
80 as determined by the bureau of labor statistics of the United States
81 Department of Labor, or its successor agency.

82 Each eligible claimant shall be entitled to assistance under this
83 section equal to the amount by which the real estate tax payment
84 or the rent constituting real estate tax payment exceeds eight
85 percent of the household income of the claimant. Only one
86 claimant from any household shall be eligible for assistance with
87 respect to any calendar year.

88 No claimant shall be eligible for assistance under this section
89 if the claimant's household income for the preceding calendar year
90 exceeds thirty thousand dollars in calendar year nineteen hundred
91 and ninety-two, if the claim for assistance is filed during calendar
92 year nineteen hundred and ninety-three, or for claims filed in
93 succeeding calendar years, thirty thousand dollars multiplied by
94 a fraction the numerator of which is the consumer price index for
95 the calendar year immediately preceding that during which the
96 claim is filed, and the denominator of which is the consumer price
97 index for calendar year nineteen hundred and ninety-two.

98 No claimant shall be eligible for assistance under this section
99 if the claimant was designated as a dependent by another
100 individual for federal income tax purposes with respect to any
101 portion of the preceding calendar year.

102 No assistance shall be granted under this section with respect
103 to the real estate tax payment or rent constituting real estate tax
104 payment on more than one residence of any claimant during any
105 calendar year; provided, however, that a claimant whose
106 household makes a permanent change of primary dwellings during
107 the course of the calendar year may claim assistance for real estate
108 tax payment or rent constituting real estate tax payment with
109 respect to each such primary dwelling actually occupied during
110 the preceding year.

111 No assistance shall be granted under this section unless such
112 assistance is claimed on a form approved by the commissioner
113 and filed together with the return of income provided for by
114 section six of chapter sixty-two C or in case of an individual not
115 otherwise required to file a return under said section, on or before
116 the fifteenth day of April following the end of the calendar year
117 with respect to which assistance is claimed, or within any
118 extension of time granted by the commissioner.

119 The commissioner shall be responsible for the determination
120 of the amount of assistance to which each claimant is entitled
121 under this section, and shall make available forms and tables of
122 allowable claims with instructions for claimants. The commis-
123 sioner shall adopt such regulations and require such information
124 including reasonable proof of taxes or rent paid, as he deems
125 necessary. The commissioner shall formulate the regulations to
126 encourage the maximum participation of persons entitled to
127 assistance under this section and shall make every effort to inform
128 the public about the assistance available under this section.

129 The commissioner shall prepare and distribute to local officials
130 throughout the commonwealth informational materials describ-
131 ing the provisions of this section in a manner calculated to be
132 understood by those seeking to file claims for assistance under
133 this section so that said local officials can distribute those
134 materials in their communities to broadly advise the public of the
135 assistance available under this section.

136 If upon the audit of any claim filed under this section the
137 commissioner determines that the claimant is ineligible for
138 assistance, that the amount of assistance claimed was incorrectly
139 determined, or that the rent constituting real estate tax payment
140 did not result from a good faith rental agreement and that the
141 rent claim was excessive, the commissioner shall deny or

142 redetermine the claim and shall notify the claimant of the denial
143 or redetermination and the reasons therefor.

144 The commissioner shall direct the treasurer to pay all valid
145 claims filed under this section on or before the fifteenth day of
146 October of the calendar year in which the claims are filed. Any
147 payment made after this date shall bear interest at the rate of six
148 percent per annum.

149 The commissioner shall file a report with the governor, the clerk
150 of the senate and the clerk of the house of representatives on or
151 before the fourth Monday of February of each year, setting forth
152 the amount of assistance claimed, authorized and actually paid
153 under this section, the number of recipients, and the amount of
154 assistance reported by locality, income level, nature of dwelling
155 and such other variables as will assist in the evaluation of the
156 assistance granted under this section.

157 All provisions of law relative to the assessment, collection,
158 payment, abatement, appeal, verification and administration of
159 taxes levied under chapter sixty-two, shall, so far as pertinent, be
160 applicable to claims for assistance under this section. If, after the
161 amount of assistance has been paid, the commissioner determines
162 through subsequent audit of the claim that the claimant was not
163 entitled to such assistance or to some portion thereof, the
164 commissioner may at any time within three years of the payment
165 of such assistance assess and collect such portion in the manner
166 provided for the assessment and collection of taxes levied under
167 chapter sixty-two.

168 The amount of any assistance due under the provisions of this
169 section may be applied by the treasurer against any outstanding
170 taxes owned to the commonwealth or its subdivisions by the
171 claimant or members of the claimant's household, upon
172 certification by the commissioner and adequate notification to the
173 claimant.

174 If it is determined that a claim is excessive and was filed with
175 fraudulent intent, the claim shall be disallowed in full, and if the
176 claim has been paid the amount may be recovered by assessment
177 as provided in section eight of chapter sixty-two, and the
178 assessment shall bear interest for the date of payment until
179 refunded or repaid, at the rate of one percent per month. Any
180 claimant who willfully files a false or fraudulent claim, and any

181 person who assisted in the preparation or filing of such a claim
182 with fraudulent intent, shall be punished by a fine of not less than
183 one hundred nor more than ten thousand dollars, or by
184 imprisonment for not more than one year, or both.

185 No owner or lessor of rented residential property shall
186 discriminate in the renting, charging or collecting of rent on any
187 rented unit, or in any other manner, because the tenant or lessee
188 is claiming or receiving assistance under this section. No owner
189 or lessor of rented residential property shall increase rents in order
190 to recover directly or indirectly any assistance claimed or received
191 by a tenant, lessee or occupant nor shall any tenant, lessee or
192 occupant be legally obligated to pay any such increase or penalized
193 in any way for failure to do so.

194 Assistance provided under this section shall not be counted as
195 income in determining eligibility or benefits under any other
196 means tested assistance program, including but not limited to all
197 such cash, food, medical, housing, energy and educational
198 assistance programs.

