

By Mrs. Walrath of Stow, petition of Patricia A. Walrath and other members of the General Court that provision be made for a property tax deferral for taxpayers experiencing a temporary hardship. Taxation.

**The Commonwealth of Massachusetts**

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

AN ACT PROVIDING FOR A PROPERTY TAX DEFERRAL FOR TAXPAYERS EXPERIENCING A TEMPORARY HARDSHIP.

*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 five of chapter 59 of the General Laws, as appearing in  
2 the 1994 Official Edition, is hereby amended by inserting after  
3 clause eighteenth the following: —

4 Eighteenth A. Real property, to an amount determined as here-  
5 inafter provided, of a person who by reason of temporary hardship  
6 is in the judgment of the assessors unable to contribute fully  
7 toward the public charges and occupied by him as his domicile, or  
8 of a person who owns the same jointly or as a tenant in common  
9 with a person not his spouse and occupied by him as his domicile  
10 and

11 (1) has so owned and occupied as his domicile such real prop-  
12 erty or other real property in the commonwealth for five years; or

13 (2) is a surviving spouse who inherits such real property and  
14 has occupied such real property or other real property in the com-  
15 monwealth as his or her domicile for five years and who other-  
16 wise qualifies under this clause; and provided further that such  
17 person, and such person and his spouse, if married, had, during  
18 the preceding year, gross receipts from all sources not in excess of  
19 ten times the actual taxes due, or \$25,000, whichever is less.

20 In determining the total period ownership of an applicant for  
21 exemption under this clause, the time during which the same  
22 property was owned by a husband or wife individually shall be

23 added to the period during which such property was owned by  
24 said husband and wife jointly. In computing the gross receipts of  
25 such an applicant or of such an applicant and his spouse, if mar-  
26 ried, ordinary business expenses and losses may be deducted but  
27 not personal and family expenses.

28 Any such person may, on or before December fifteenth of each  
29 year, apply to the board of assessors for an exemption of all or  
30 part of such real property from taxation during such year; pro-  
31 vided, however, that in the case of real estate owned by a person  
32 jointly or as a tenant in common with a person not his spouse, the  
33 exemption shall not exceed that proportion of total valuation  
34 which the amount of his interest in such property bears to the  
35 whole tax due. The board of assessors shall grant such exemption  
36 provided that the owner or owners of such real property have  
37 entered into a tax deferral and recovery agreement with said board  
38 of assessors on behalf of the city or town. The said agreement  
39 shall provide:

40 (1) that no sale or transfer of such real property may be con-  
41 summated unless the taxes which would otherwise have been  
42 assessed on such portion of the real property as is so exempt have  
43 been paid, with interest at the rate of eight per cent per annum;

44 (2) that the total amount of such taxes due, plus interest, for the  
45 current and prior years does not exceed fifty per cent of the  
46 owner's proportional share of the full and fair cash value of such  
47 real property;

48 (3) that upon the demise of the owner of such real property, the  
49 heirs-at-law, assignees or devisees shall have first priority to said  
50 real property by paying in full the total taxes which would other-  
51 wise have been due, plus interest; provided, however, if such heir-  
52 at-law, assignee or devisee is a surviving spouse who enters into a  
53 tax deferral and recovery agreement under this clause, payment of  
54 the taxes and interest due shall not be required during the life of  
55 such surviving spouse. Any additional taxes deferred, plus  
56 interest, on said real property under a tax deferral and recovery  
57 agreement signed by a surviving spouse shall be added to the  
58 taxes and interest which would otherwise have been due, and the  
59 payment of which has been postponed during the life of such sur-  
60 viving spouse, in determining the fifty per cent requirement of  
61 subparagraph (2);

62 (4) that if the taxes due, plus interest, are not paid by the heir-  
63 at-law, assignee or devisee or if payment is not postponed during  
64 the life of a surviving spouse, such taxes and interest shall be  
65 recovered from the estate of the owner;

66 (5) that any joint owner or mortgagee holding a mortgage on  
67 such property has given written prior approval for such agree-  
68 ment, which written approval shall be made a part of such agree-  
69 ment; and

70 (6) that the agreement shall cover no more than three tax years  
71 and that the total amount of taxes due plus interest shall be paid in  
72 five equal payments over a five year period, the first such pay-  
73 ment to be due two years after the last tax year covered by the  
74 agreement.

75 In the case of each tax deferral and recovery agreement entered  
76 into between the board of assessors and the owner or owners of  
77 such real property, the said board of assessors shall forthwith  
78 cause to be recorded in the registry of deeds of the county or dis-  
79 trict in which the city or town is situated a statement of their  
80 action which shall constitute a lien upon the land covered by such  
81 agreement for such taxes as have been assessed under the provi-  
82 sions of this chapter, plus interest as hereinafter provided. The  
83 statement shall name the owner or owners and shall include a  
84 description of the land adequate for identification. Unless such a  
85 statement is recorded the lien shall not be effective with respect to  
86 a bona fide purchaser or other transferee without actual knowl-  
87 edge of such lien. The filing fee for such statement shall be paid  
88 by the city or town and shall be added to and become a part of the  
89 taxes due.

