

**HOUSE . . . . . No. 2922**

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**The Commonwealth of Massachusetts**

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PRESENTED BY:

***Kenneth I. Gordon***

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*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the senior property tax deferral program.

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PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>	<i>2/19/2021</i>

**HOUSE . . . . . No. 2922**

By Mr. Gordon of Bedford, a petition (accompanied by bill, House, No. 2922) of Kenneth I. Gordon for legislation to authorize the Massachusetts Housing Finance Agency to establish a senior property tax deferral revolving fund. Revenue.

**The Commonwealth of Massachusetts**

**In the One Hundred and Ninety-Second General Court  
(2021-2022)**

An Act relative to the senior property tax deferral program.

*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 29 of the General Laws is hereby amended by inserting after  
2 section 2KKKKK, as inserted by section 1 of chapter 254 of the acts of 2020, the following  
3 section:-

4 Section 2LLLLL. (a) The Massachusetts Housing Finance Agency shall create and  
5 establish a revolving fund, herein referred to as the Senior Property Tax Deferral Revolving  
6 Fund, and shall pay into such Senior Property Tax Deferral Revolving Fund any monies  
7 appropriated and made available by the commonwealth for the purposes of such Fund, and any  
8 other monies which may be available to the Massachusetts Housing Finance Agency for its  
9 general purposes from any source or sources including proceeds from the issuance and sale of  
10 notes or bonds by the Massachusetts Housing Finance Agency.

11 All monies held in the Senior Property Tax Deferral Revolving Fund, including without  
12 limitation any income or interest earned by, or increment to such Fund, shall be used by the

13 Massachusetts Housing Finance Agency for the purposes of financial assistance in the form of  
14 loans to cities and towns in amounts equal to 100 per cent of deferred real property taxes  
15 pursuant to clause Forty-First A of section 5 of chapter 59.

16       Upon receipt of the taxes and interest due pursuant to said clause Forty-First A of said  
17 section 5 of said chapter 59 following the sale or transfer of real property for which taxes have  
18 been deferred, a city or town that has received a loan from the Massachusetts Housing Finance  
19 Agency pursuant to this section shall deposit the funds received into the Senior Property Tax  
20 Deferral Fund.

21       (b) The Massachusetts Housing Finance Agency shall annually report on the Senior  
22 Property Tax Deferral Revolving Fund. The report shall include, but not be limited to: (1) the  
23 revenue credited to the fund; (2) the amount of fund expenditures attributable to the  
24 administrative costs of the fund; and (3) a list of the funds loaned to and repaid by each  
25 municipality. The report shall be provided to the chairs of the joint committee on revenue and the  
26 clerks of the house of representatives and the senate.

27       SECTION 2. Section 5 of chapter 59 of the General Laws, as appearing in the 2018  
28 Official Edition, is hereby amended by striking out clause forty-first A and inserting in place  
29 thereof the following clause:- Forty-first A, Real property, to an amount determined as  
30 hereinafter provided, (i) of a person 65 years of age or over and occupied by them as their  
31 domicile, (ii) of a person who owns the same jointly with their spouse, either of whom is 65  
32 years of age or over, and occupied as their domicile, or (iii) of a person 65 years of age or over  
33 who owns the same jointly or as a tenant in common with a person not their spouse and occupied  
34 by them as their domicile; provided, that such person:

35 (1) has so owned and occupied as their domicile such real property or other real property  
36 in the commonwealth for 5 years; or

37 (2) is a surviving spouse who inherits such real property and has occupied such real  
38 property or other real property in the commonwealth as their domicile for 5 years and who  
39 otherwise qualifies pursuant to this clause.

40 In determining the total period of ownership of an applicant for exemption pursuant to  
41 this clause, the time during which the same property was owned by a spouse individually shall be  
42 added to the period during which such property was owned by said spouses jointly.

43 The board of assessors for each municipality shall include on every property tax bill a  
44 check-box where homeowners may certify their eligibility for the deferral of taxation on real  
45 property and opt-in to deferral of taxes on said real property; provided, however, that in the case  
46 of real estate owned by a person jointly or as a tenant in common with a person not such person's  
47 spouse, the exemption shall not exceed that proportion of total valuation which the amount of  
48 such person's interest in such property bears to the whole tax due. The board of assessors shall  
49 grant such exemption provided that the owner or owners of such real property have entered into a  
50 tax deferral and recovery agreement with said board of assessors on behalf of the city or town.

51 The said agreement shall provide:

52 (1) that no sale or transfer of such real property may be consummated unless the taxes  
53 which would otherwise have been assessed on such portion of the real property as is so exempt  
54 have been paid, with interest, at a rate to be calculated by the Massachusetts Housing Finance  
55 Agency, which shall be equal to the borrowing and administrative costs of the Senior Property

56 Tax Deferral Revolving Fund established pursuant to section 2LLLLL of chapter 29, no later  
57 than the beginning of the fiscal year to which the tax relates;

58 (2) that the total amount of such taxes due, plus interest, for the current and prior years  
59 does not exceed 60 per cent of the owner's proportional share of the full and fair cash value of  
60 such real property;

61 (3) that upon the demise of the owner of such real property, the heirs-at-law, assignees or  
62 devisees shall have first priority to said real property by paying in full the total taxes which  
63 would otherwise have been due, plus interest; provided, however, if such heir-at-law, assignee or  
64 devisee is a surviving spouse who enters into a tax deferral and recovery agreement pursuant to  
65 this clause, payment of the taxes and interest due shall not be required during the life of such  
66 surviving spouse. Any additional taxes deferred, plus interest, on said real property pursuant to a  
67 tax deferral and recovery agreement signed by a surviving spouse shall be added to the taxes and  
68 interest which would otherwise have been due, and the payment of which has been postponed  
69 during the life of such surviving spouse, in determining the 60 per cent requirement of  
70 subparagraph (2);

71 (4) that upon receipt of the taxes due, plus interest, the municipality shall deposit the  
72 funds into the Senior Property Tax Deferral Fund established pursuant to section 2LLLLL of  
73 chapter 29;

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

77 (6) that any joint owner or mortgagee holding a mortgage on such property has given  
78 written prior approval for such agreement, which written approval shall be made a part of such  
79 agreement.

80 In the case of each tax deferral and recovery agreement entered into between the board of  
81 assessors and the owner or owners of such real property, said board of assessors shall deliver a  
82 copy of said agreement and a copy of the property tax bill for the fiscal year which is being  
83 deferred to the department of revenue. Upon receipt of said agreement and said property tax bill,  
84 the department of revenue shall send to the city or town an amount equal to the deferred taxes  
85 and record with the registry of deeds of the county or district in which the city or town is situated  
86 a statement of their action which shall constitute a lien upon the land covered by such agreement  
87 for such taxes as have been assessed pursuant to the provisions of this chapter, plus interest as  
88 provided herein. Notwithstanding any special or general laws to the contrary, a lien filed  
89 pursuant to this section shall continue until the deferred taxes, plus interest, have been recovered  
90 pursuant to this clause. A lien filed pursuant to this section shall be subsequent to any liens  
91 securing a reverse mortgage, excepting shared appreciation instruments. The statement shall  
92 name the owner or owners and shall include a description of the land adequate for identification.  
93 Unless such a statement is recorded the lien shall not be effective with respect to a bona fide  
94 purchaser or other transferee without actual knowledge of such lien. The filing fee for such  
95 statement shall be paid by the city or town and shall be added to and become a part of the taxes  
96 due.

97 In addition to the remedies provided by this clause, the recorded statement of the  
98 assessors provided for in this clause shall have the same force and effect as a valid taking for  
99 nonpayment of taxes pursuant to section 53 of chapter 60, except that: (1) interest shall accrue at

100 the rate provided in this clause for 1 year following the conveyance of the property or the death  
101 of the person whose taxes have been deferred, after which time interest shall accrue at the rate  
102 provided in section 62 of chapter 60; (2) no assignment of the municipality's interest pursuant to  
103 this clause may be made pursuant to section 52 of chapter 60; (3) no petition pursuant to section  
104 65 of chapter 60 to foreclose the lien may be filed before the expiration of 6 months from the  
105 conveyance of the property or the death of the person whose taxes have been deferred.