

HOUSE No. 2998

The Commonwealth of Massachusetts

PRESENTED BY:

Paul W. Mark and Erika Uyterhoeven

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 to create and sustain jobs through development of employee-owned businesses and cooperatives.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>	<i>2/19/2021</i>
<i>Erika Uyterhoeven</i>	<i>27th Middlesex</i>	<i>2/19/2021</i>
<i>Maria Duaine Robinson</i>	<i>6th Middlesex</i>	<i>2/25/2021</i>

HOUSE No. 2998

By Representatives Mark of Peru and Uytterhoeven of Somerville, a petition (accompanied by bill, House, No. 2998) of Paul W. Mark, Erika Uytterhoeven and Maria Duaima Robinson relative to the taxation of employee-owned businesses and cooperatives. Revenue.

The Commonwealth of Massachusetts

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

An Act to create and sustain jobs through development of employee-owned businesses and cooperatives.

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. Paragraph (2) of subsection (a) of section 2 of chapter 62 of the General
2 laws is hereby amended by inserting after subparagraph (Q) the following 2 subparagraphs:-

3 (R) For taxable years beginning on or after January 1, 2023, to the extent included in
4 federal adjusted gross income and to the extent otherwise subject to taxation pursuant to this
5 chapter, an amount equal to any gain recognized on the sale by the taxpayer of an ownership
6 interest in a qualified business if the business was transferred to:

7 (1) An employee stock ownership plan as defined in section 4975(e)(7) of the Code,;

8 (2) An S corporation of the commonwealth owned by an employee stock ownership plan;

9 (3) An eligible worker-owned cooperative as defined in section 1042(c)(2) of the Code;

10 (4) A worker-owner cooperative operating as a for-profit entity organized under
11 Massachusetts law, whose articles of organization, bylaws, or other similar organizational
12 documents provide for a class of voting membership interests that may only be owned by
13 workers of the entity and which, except for limited major decisions, are the only class of
14 membership interests in the entity given voting power and give each worker-owner one vote on
15 each matter put to the worker-owners for a vote; or

16 (5) If the business provides housing, a cooperative housing corporation organized under
17 chapter 157B;

18 provided that, the transferee entity owns and controls at least 51 per cent of all
19 outstanding employer securities issued by the qualified business.

20 For purposes of this subparagraph, "qualified business" means a business with fewer than
21 500 employees whose securities are not publicly traded on any stock exchange and that is
22 organized in the commonwealth or whose principal place of business is within the
23 commonwealth

24 including a corporation, an S corporation, a limited liability company, a limited liability
25 partnership, a sole proprietorship and all private entities related by common ownership or
26 control.

27 (S) For taxable years beginning on or after January 1, 2023, to the extent included in
28 federal adjusted gross income and to the extent otherwise subject to taxation pursuant to this
29 chapter, an amount equal to the interest received during the taxable year by the taxpayer with
30 respect to a qualified business acquisition loan.

31 For purposes of this subparagraph:

32 (1) "Qualified business" means a business with fewer than 500 employees whose
33 securities are not publicly traded on any stock exchange and that is organized in the
34 commonwealth or whose principal place of business is within the commonwealth including a
35 corporation, an S corporation, a limited liability company, a limited liability partnership, a sole
36 proprietorship and all private entities related by common ownership or control; and

37 (2) "Qualified business acquisition loan," including a loan or part of a series of loans,
38 means:

39 (a) A loan of which at least 90 per cent of the proceeds are applied to the acquisition of
40 majority ownership of a qualified business not owned by 1 of the following entities and that is
41 given to 1 of the following entities, where the entity owns and controls at least 51 per cent of all
42 outstanding employer securities issued by the qualified business:

43 (i) An employee stock ownership plan as defined in section 4975(e)(7) of the Code;

44 (ii) An S corporation of the commonwealth owned by an employee stock ownership plan;

45 (iii) An eligible worker-owned cooperative as defined in section 1042(c)(2) of the Code;

46 (iv) A worker-owner cooperative operating as a for-profit entity organized under
47 Massachusetts law, whose articles of organization, bylaws, or other similar organizational
48 documents provide for a class of

49 voting membership interests that may only be owned by workers of the entity and which,
50 except for limited major decisions, are the only class of membership interests in the entity given

51 voting power and give each worker-owner one vote on each matter put to the worker-owners for
52 a vote; or

53 (v) If the business provides housing, a cooperative housing corporation organized under
54 chapter 157B;

55 (b) A loan to a corporation that sponsors an employee stock ownership plan if all
56 proceeds of the loan are loaned to the employee stock ownership plan to acquire for the plan all
57 outstanding employer securities in a qualified business and the plan's repayment terms are
58 substantially similar to the corporation's repayment terms; or

59 (c) A loan used to refinance a qualified business acquisition loan.

60 SECTION 2. Chapter 63 of the General Laws is hereby amended by inserting after
61 section 31N the following 2 sections:-

62 Section 31O. (a) In determining the net income subject to taxation under this chapter for
63 taxable years beginning on or after January 1, 2023, a business corporation may deduct, to the
64 extent included in federal adjusted gross income and to the extent otherwise subject to taxation
65 pursuant to this chapter, an amount equal to any gain recognized on the sale by the business
66 corporation of an ownership interest in a qualified business if the business was transferred to:

67 (1) An employee stock ownership plan as defined in section 4975(e)(7) of the Code;

68 (2) An S corporation of the commonwealth owned by an employee stock ownership plan;

69 (3) An eligible worker-owned cooperative as defined in section 1042(c)(2) of the Code;

70 (4) A worker-owner cooperative operating as a for-profit entity organized under
71 Massachusetts law, whose articles of organization, bylaws, or other similar organizational
72 documents provide for a class of voting membership interests that may only be owned by
73 workers of the entity and which, except for

74 limited major decisions, are the only class of membership interests in the entity given
75 voting power and give each worker-owner one vote on each matter put to the worker-owners for
76 a vote; or

77 (5) If the business provides housing, a cooperative housing corporation organized under
78 chapter 157B; provided that, the transferee entity owns and controls at least 51 per cent of all
79 outstanding employer securities issued by the qualified business.

80 (b) For purposes of this paragraph, "qualified business" means a business with fewer than
81 500 employees whose securities are not publicly traded on any stock exchange and that is
82 organized in the commonwealth or whose principal place of business is within the
83 commonwealth including a corporation, an S corporation, a limited liability company, a limited
84 liability partnership, a sole proprietorship and all private entities related by common ownership
85 or control.

86 Section 31P. (a) In determining the net income subject to taxation under this chapter for
87 taxable years beginning on or after January 1, 2023, a business corporation may deduct, to the
88 extent included in federal adjusted gross income and to the extent otherwise subject to taxation
89 pursuant to this chapter, an amount equal to the interest received during the taxable year by the
90 business corporation with respect to a qualified business acquisition loan.

91 (b) For purposes of this section:

92 (1) "Qualified business" means a business with fewer than 500 employees whose
93 securities are not publicly traded on any stock exchange and that is organized in the
94 commonwealth or whose principal place of business is within the commonwealth including a
95 corporation, an S corporation, a limited liability company, a limited liability partnership, a sole
96 proprietorship and all private entities related by common ownership or control; and

97 (2) "Qualified business acquisition loan," including a loan or part of a series of loans,
98 means:

99 (a) A loan of which at least 90% of the proceeds are applied to the acquisition of majority
100 ownership of a qualified business not owned by 1 of the following entities and that is given to 1
101 of the following entities, where the entity owns and controls at least 51 per cent of all
102 outstanding employer securities issued by the qualified business:

103 (i) An employee stock ownership plan as defined in section 4975(e)(7) of the Code;

104 (ii) An S corporation of the commonwealth owned by an employee stock ownership plan;

105 (iii) An eligible worker-owned cooperative as defined in section 1042(c)(2) of the Code;

106 (iv) A worker-owner cooperative operating as a for-profit entity organized under
107 Massachusetts law, whose articles of organization, bylaws, or other similar organizational
108 documents provide for a class of voting membership interests that may only be owned by
109 workers of the entity and which, except for limited major decisions, are the only class of
110 membership interests in the entity given voting power and give each worker-owner one vote on
111 each matter put to the worker-owners for a vote; or

112 (v) If the business provides housing, a cooperative housing corporation organized under
113 chapter 157B;

114 (b) A loan to a corporation that sponsors an employee stock ownership plan if all
115 proceeds of the loan are loaned to the employee stock ownership plan to acquire for the plan all
116 outstanding employer securities in a qualified business and the plan's repayment terms are
117 substantially similar to the corporation's repayment terms; or

118 (c) A loan used to refinance a qualified business acquisition loan.