

HOUSE No. 4467

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, March 4, 2020.

The committee on Revenue, to whom were referred the petition (accompanied by bill, Senate, No. 1761) of Michael J. Rodrigues, Paul A. Schmid, III, Susan Williams Gifford, Carole A. Fiola and other members of the General Court for legislation to establish a cranberry bog renovation tax credit, and the petition (accompanied by bill, House, No. 2647) of William M. Straus and others relative to cranberry bog renovation tax credits, reports recommending that the accompanying bill (House, No. 4467) ought to pass.

For the committee,

MARK J. CUSACK.

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**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relative to a cranberry bog renovation tax credit.

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. Section 6 of Chapter 62 of the General Laws, as appearing in the 2018
2 Official Edition, is hereby amended by adding at the end thereof the following subsection:-

3 (w) (1) As used in this subsection, the following words shall have the following meanings
4 unless the context clearly requires otherwise:-

5 “Commissioner”, the commissioner of revenue

6 “Cranberry bog” or “bog”, an area actively cultivated for the harvesting or production of
7 any variety of cranberry.

8 "Qualified renovation", any renovation, repair, replacement, re-grading or restoration of a
9 cranberry bog for the purpose of cultivating, harvesting or producing any variety of cranberry, or
10 otherwise any other activity or action associated with the renovation of an abandoned cranberry
11 bog. The term “qualified renovation” shall not include the construction of facilities or structures
12 for the purpose of processing cranberries.

13 “Qualified renovation expenditure”, any expenditure or cost directly incurred in
14 connection with the qualified renovation of a cranberry bog. The term “qualified renovation
15 expenditure” shall not include costs incurred in acquiring or purchasing property, in relation to
16 the construction of structures for the purpose of cultivating, harvesting or producing cranberries.

17 “Secretary”, the secretary of energy and environmental affairs

18 "Taxpayer", a taxpayer subject to the taxation under this chapter.

19 (2)(i) A taxpayer primarily engaged in cranberry production shall be allowed a credit
20 against the taxes imposed by this chapter equal to 25 per cent of the total qualified renovation
21 expenditures incurred in connection with the qualified renovation of a cranberry bog during the
22 taxable year; provided, however, the amount of the credit that may be claimed by a taxpayer
23 under this section shall not exceed \$100,000.

24 (ii) The credit under this subsection shall be taken against the taxes imposed under this
25 chapter and shall be refundable. The commissioner shall apply the credit against the liability of
26 the taxpayer as determined on its return, as first reduced by any other available credits, and shall
27 then refund to the taxpayer the balance of the credits. If the amount of the credit allowed under
28 this subsection exceeds the taxpayer's tax liability, the commissioner shall treat the excess as an
29 overpayment and shall pay the taxpayer the entire amount of the excess. Any amount of the tax
30 credit that exceeds the tax due for a taxable year may be carried forward by the taxpayer to any
31 of the 5 subsequent taxable years.

32 (iii) The secretary, in consultation with the commissioner of agricultural resources, shall
33 authorize annually, for the period beginning January 1, 2020 and ending December 31, 2024, tax
34 credits under this subsection together with section 38II of chapter 63, an amount not to exceed

35 \$2,000,000 per taxable year. No credits shall be allowed under this subsection except to the
36 extent authorized in this paragraph.

37 (3) For a taxpayer to qualify for the credit provided for under this subsection, the
38 taxpayer shall file with the secretary a summary of qualified renovation expenditures in
39 connection with the qualified renovation. The secretary shall approve the summary of qualified
40 renovation expenditures and provide notice to the commissioner. Any qualified renovation
41 expenditures applicable to this credit shall be treated for purposes of this subsection as made on
42 the date that the secretary provides notice of the certification to the commissioner.

43 (4) Any portion of tax credits not awarded by the secretary in a calendar year shall not be
44 applied to awards in a subsequent year. The secretary shall provide any documentation that the
45 commissioner may deem necessary to confirm compliance with subparagraph (iii) of paragraph
46 (2) and the commissioner shall provide a report confirming compliance to the secretary of
47 administration and finance.

48 (5) The secretary shall annually, not later than September 1, file a report with the house
49 and senate committees on ways and means, the joint committee on environment, natural
50 resources and agriculture and the joint committee on revenue identifying the total amount of tax
51 credits claimed and the total amount of tax credits refunded pursuant to this subsection in the
52 preceding fiscal year.

53 (6) The secretary, in consultation with the commissioner of agricultural resources and
54 revenue, shall promulgate regulations or other guidelines necessary for the administration and
55 implementation of this subsection.

56 SECTION 2. Chapter 63 of the General Laws, as appearing in the 2018 Official Edition,
57 is hereby amended by inserting after section 38HH the following section:-

58 Section 38II. (a) As used in this section, the following words shall have the following
59 meanings unless the context clearly requires otherwise:

60 “Commissioner”, the commissioner of revenue

61 “Cranberry bog” or “bog”, an area actively cultivated for the harvesting or production of
62 any variety of cranberry.

63 "Qualified renovation", any renovation, repair, replacement, re-grading or restoration of a
64 cranberry bog for the purpose of cultivating, harvesting or producing any variety of cranberry, or
65 otherwise any other activity or action associated with the renovation of an abandoned cranberry
66 bog. The term “qualified renovation” shall not include the construction of facilities or structures
67 for the purpose of processing cranberries.

68 “Qualified renovation expenditure”, any expenditure or cost directly incurred in
69 connection with the qualified renovation of a cranberry bog. The term “qualified renovation
70 expenditure” shall not include costs incurred in acquiring or purchasing property in relation to
71 the construction of structures for the purpose of cultivating, harvesting or producing cranberries.

72 “Secretary”, the secretary of energy and environmental affairs

73 "Taxpayer", a taxpayer subject to the taxation under this chapter.

74 (b)(1) A taxpayer primarily engaged in cranberry production shall be allowed a credit
75 against the taxes imposed by this chapter equal to 25 per cent of the total qualified renovation
76 expenditures incurred in connection with the qualified renovation of a cranberry bog during the

77 taxable year; provided, however, the amount of the credit that may be claimed by a taxpayer
78 under this section shall not exceed \$100,000.

79 (2) The credit under this section shall be taken against the taxes imposed under this
80 chapter and shall be refundable. The commissioner shall apply the credit against the liability of
81 the taxpayer as determined on its return, as first reduced by any other available credits, and shall
82 then refund to the taxpayer the balance of the credits. If the amount of the credit allowed under
83 this section exceeds the taxpayer's tax liability, the commissioner shall treat the excess as an
84 overpayment and shall pay the taxpayer the entire amount of the excess. Any amount of the tax
85 credit that exceeds the tax due for a taxable year may be carried forward by the taxpayer to any
86 of the 5 subsequent taxable years.

87 (3) The secretary, in consultation with the commissioner of agricultural resources, shall
88 authorize annually, for the period beginning January 1, 2020 and ending December 31, 2024, tax
89 credits under this subsection together with subsection w of section 6 of chapter 62, an amount
90 not to exceed \$2,000,000 per taxable year. No credits shall be allowed under this subsection
91 except to the extent authorized in this subsection.

92 (c) For a taxpayer to qualify for the credit provided for under this section, the taxpayer
93 shall file with the secretary a summary of qualified renovation expenditures in connection with
94 the qualified renovation. The secretary shall approve the summary of qualified renovation
95 expenditures and provide notice to the commissioner. Any qualified renovation expenditures
96 applicable to this credit shall be treated for purposes of this section as made on the date that the
97 secretary provides notice of the certification to the commissioner.

98 (d) Any portion of tax credits not awarded by the secretary in a calendar year shall not be
99 applied to awards in a subsequent year. The secretary shall provide any documentation that the
100 commissioner may deem necessary to confirm compliance with paragraph (3) of subsection (b)
101 and the commissioner shall provide a report confirming compliance to the secretary of
102 administration and finance.

103 (e) The secretary shall annually, not later than September 1, file a report with the house
104 and senate committees on ways and means, the joint committee on environment, natural
105 resources and agriculture and the joint committee on revenue identifying the total amount of tax
106 credits claimed and the total amount of tax credits refunded pursuant to this section in the
107 preceding fiscal year.

108 (f) The secretary, in consultation with the commissioner of agricultural resources and
109 revenue, shall promulgate regulations or other guidelines necessary for the administration and
110 implementation of this section.