

SENATE No. 1760

The Commonwealth of Massachusetts

PRESENTED BY:

Michael J. Rodrigues

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 application deadlines for agricultural, horticultural, or recreational land.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Michael J. Rodrigues</i>	<i>First Bristol and Plymouth</i>	
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>	<i>1/29/2019</i>
<i>Paul A. Schmid, III</i>	<i>8th Bristol</i>	<i>1/23/2019</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>	<i>1/29/2019</i>
<i>Norman J. Orrall</i>	<i>12th Bristol</i>	<i>1/30/2019</i>
<i>Adam G. Hinds</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>	<i>1/31/2019</i>
<i>Steven S. Howitt</i>	<i>4th Bristol</i>	<i>1/31/2019</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>	<i>2/1/2019</i>
<i>Donald F. Humason, Jr.</i>	<i>Second Hampden and Hampshire</i>	<i>2/1/2019</i>
<i>Harold P. Naughton, Jr.</i>	<i>12th Worcester</i>	<i>2/1/2019</i>

SENATE No. 1760

By Mr. Rodrigues, a petition (accompanied by bill, Senate, No. 1760) of Michael J. Rodrigues, Anne M. Gobi, Paul A. Schmid, III, Susan Williams Gifford and other members of the General Court for legislation relative to application deadlines for agricultural, horticultural, or recreational land. Revenue.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1607 OF 2017-2018.]

The Commonwealth of Massachusetts

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**In the One Hundred and Ninety-First General Court
(2019-2020)**
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An Act relative to application deadlines for agricultural, horticultural, or recreational land.

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 2 of chapter 61 of the General Laws, as appearing in the 2016
2 Official Edition, is hereby amended by striking out the second paragraph and inserting in place
3 thereof the following paragraph:-

4 When, in the judgment of the assessors, land which is classified as forest land or which is
5 the subject of an application for such classification is not being managed under a program, is
6 being used for purposes incompatible with forest production or does not otherwise qualify under
7 this chapter, the assessors may, not later than February 1 in any year, file an appeal in writing
8 mailed by certified mail to the state forester requesting a denial of application or, in the case of
9 classified forest land, requesting removal of the land from such classification. The appeal shall

10 state the reasons for the request. A copy of the appeal shall be mailed by the assessors by
11 certified mail to the owner of the land. The state forester may initiate, not later than December 1
12 of any year, a proceeding to remove land from classification, sending notice of the action by
13 certified mail to the assessors and the owner of the land. The state forester may deny the owner's
14 application, may withdraw all or part of the land from classification or may grant the application,
15 imposing terms and conditions that the state forester deems reasonable to carry out this chapter,
16 and shall notify the assessors and the owner of that decision not later than March 1 of the
17 following year. If the owner or the assessors are aggrieved by a decision of the state forester they
18 may, not later than June 15, give notice to the state forester of a claim of appeal. Not later than
19 30 days after receipt of a notice of appeal, the state forester shall convene a panel in the region in
20 which the land is located. The panel shall consist of 3 members, 1 of whom shall be named by
21 the state forester, 1 of whom shall be named by the assessors and 1 of whom shall be named by
22 the state forester and the assessors. The panel shall give notice of the date, time and place of the
23 hearing in writing to the parties not less than 7 days before the date of that hearing. The panel
24 shall furnish the parties, in writing, with a notice of its decision not later than 10 days after the
25 adjournment of the hearing. Decisions of the panel shall be by majority vote of its members. If
26 the owner or the assessors are aggrieved by a decision of the panel, they may, not more than 45
27 days after receipt of the decision, petition either the superior court in the county in which the
28 land is located for a review of the decision, pursuant to chapter 30A, or the appellate tax board,
29 pursuant to chapter 58A; provided further, that the land shall not be classified or withdrawn from
30 classification until the final determination of such petition. The state forester may adopt such
31 regulations as the state forester deems necessary to carry out this chapter.

32 SECTION 2. Said section 2 of said chapter 61, as so appearing, is hereby further
33 amended by striking out, in line 40, the word “October” and inserting in place thereof the
34 following word:- December.

35 SECTION 3. Chapter 61A of the General Laws is hereby amended by striking out section
36 6, as so appearing, and inserting in place thereof the following section:-

37 Section 6. The eligibility of land for valuation, assessment and taxation pursuant to
38 section 4 shall be determined separately for each tax year. An application for eligibility shall be
39 submitted to the board of assessors in the city or town in which the land is situated by not later
40 than December 1 preceding each tax year for which the valuation, assessment and taxation are
41 being sought. The application shall not be withdrawn after it is submitted. An application shall
42 be made on a form prescribed by the commissioner of revenue and provided to applicants by the
43 board of assessors. The form shall provide for the reporting of information pertinent to this
44 chapter and to Article XCIX of the Articles of Amendment to the Constitution of the
45 Commonwealth and for certification by the applicant that the applicant will immediately, but not
46 later than December 1 of the following year, notify the board of assessors in writing of any
47 subsequently developing circumstance within the applicant’s control or knowledge which may
48 cause a change in use of the land covered by the form. An application submitted pursuant to this
49 section for leased land shall be accompanied by a written statement of the lessee’s intent to use
50 the land for the purposes in the application and shall be signed by the lessee. The landowner shall
51 certify, in a manner prescribed by the commissioner, that under the penalties of perjury the
52 information in the landowner’s application is true. If the application is allowed pursuant to
53 section 9, then the classification of the land as actively devoted to agricultural, horticultural or
54 agricultural and horticultural use shall take effect on January 1 preceding the beginning of the tax

55 year to which the application relates and taxation pursuant to this chapter shall commence with
56 that tax year.

57 SECTION 4. Section 7 of said chapter 61A, as so appearing, is hereby amended by
58 striking out, in line 3, the words “October first and June thirtieth of the year” and inserting in
59 place thereof the following words:- December 1 and June 30.

60 SECTION 5. Said chapter 61A is hereby further amended by striking out section 8, as so
61 appearing, and inserting in place thereof the following section:-

62 Section 8. Notwithstanding any provision of this chapter to the contrary, in any tax year
63 for which a city or town has undertaken and completed a program of revaluation of all property
64 in that city or town and the commissioner of revenue has certified that revalued property is
65 assessed by the board of assessors at full and fair cash valuation, applications by landowners for
66 the valuation, assessment and taxation of their lands on the basis of being actively devoted to
67 agricultural, horticultural or agricultural and horticultural use that are filed with the board of
68 assessors by not later than the last day for filing an application for abatement of the tax assessed
69 on the new valuation shall be deemed to have been timely made for the tax year of the
70 revaluation program. If the application is approved and the lands qualify for valuation,
71 assessment and taxation as lands actively devoted to agricultural, horticultural or agricultural and
72 horticultural use in that tax year, then the portion of any tax assessed for that year which is in
73 excess of the tax that would have been assessed on the lands, if the application had been timely
74 made and approved, shall be abated.

75 SECTION 6. Section 14 of said chapter 61A, as so appearing, is hereby amended by
76 striking out the eighteenth paragraph and inserting in place thereof the following paragraph:-

77 The assignment shall be for the purpose of maintaining not less than 70 per cent of the
78 land in use as forest land as defined in section 1 of chapter 61, as land in agricultural or
79 horticultural use as defined in sections 1 and 2 or as recreational land as defined in section 1 of
80 chapter 61B, and in no case shall the assignee develop a greater proportion of the land than was
81 proposed by the developer whose offer gave rise to the assignment. All land other than land that
82 is to be developed shall then be bound by a permanent deed restriction that meets the
83 requirements of chapter 184.

84 SECTION 7. Chapter 61B of the General Laws is hereby amended by striking out section
85 3, as so appearing, and inserting in place thereof the following section:-

86 Section 3. The eligibility of land for valuation, assessment and taxation pursuant to this
87 chapter shall be determined separately for each tax year. An application for eligibility shall be
88 submitted to the board of assessors in the city or town in which the land is situated by not later
89 than December 1 preceding each tax year for which the valuation, assessment and taxation is
90 being sought. The application shall be made on a form prescribed by the commissioner of
91 revenue and provided to applicants by the board of assessors. The form shall provide for the
92 reporting of information pertinent to this chapter and for certification by the applicant that the
93 applicant will immediately, but not later than the December 1 of the following year, notify the
94 board of assessors in writing of any subsequent circumstance within the applicant's control or
95 knowledge which may cause a change in use of the land covered by the form. An application
96 submitted pursuant to this section for leased land shall be accompanied by a written statement of
97 the lessee's intent to use the land for the purposes in the application and shall be signed by the
98 lessee. The landowner shall certify, in a manner prescribed by the commissioner, that under the
99 penalties of perjury the information in the landowner's application is true. If the application is

100 allowed pursuant to section 6, then the classification of the land as recreational land shall take
101 effect on January 1 preceding the beginning of the tax year to which the application relates and
102 taxation pursuant to this chapter shall commence with that tax year.

103 SECTION 9. Section 4 of said chapter 61B, as so appearing, is hereby amended by
104 striking out, in lines 2 and 3, the words “October first and June thirtieth ” and inserting in place
105 thereof the following words:- December 1 and June 30.

106 SECTION 9. Said chapter 61B is hereby further amended by striking out section 5, as so
107 appearing, and inserting in place thereof the following section:-

108 Section 5. Notwithstanding any provision of this chapter to the contrary, in any tax year
109 for which a city or town has undertaken and completed a program of revaluation of all property
110 in that city or town and the commissioner of revenue has certified that revalued property is
111 assessed by the board of assessors at full and fair cash valuation, applications by landowners for
112 the valuation, assessment and taxation of their lands on the basis of being maintained in
113 recreational use, if filed with the board of assessors by not later than the last day for filing an
114 application for abatement of the tax assessed on the new valuation, shall be deemed to have been
115 timely made for the tax year of the revaluation program. If the application is approved and the
116 lands qualify for valuation, assessment and taxation as lands actively devoted to agricultural,
117 horticultural or agricultural and horticultural use in that tax year, then the portion of a tax
118 assessed for that year which is in excess of the tax which would have been assessed on the lands,
119 if the application had been timely made and approved, shall be abated.

120 SECTION 10. Section 6 of said chapter 61B, as so appearing, is hereby amended by
121 striking out, in line 13, the words “a disallowance” and inserting in place thereof the following
122 words:- an allowance.