

SENATE No. 1847

The Commonwealth of Massachusetts

PRESENTED BY:

Patricia D. Jehlen

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 senior property tax deferral.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	
<i>Susannah M. Whipps</i>	<i>2nd Franklin</i>	<i>2/2/2023</i>

SENATE No. 1847

By Ms. Jehlen, a petition (accompanied by bill, Senate, No. 1847) of Patricia D. Jehlen and Susannah M. Whipps for legislation relative to senior property tax deferral. Revenue.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1885 OF 2021-2022.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act relative to senior property tax deferral.

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 5 of chapter 59 of the General Laws, as appearing in the 2020
2 Official Edition, is hereby amended by striking out clause Forty-first A and inserting in place
3 thereof the following :-

4 Forty-first A, Real property, to an amount determined as hereinafter provided, of a person
5 65 years of age or over and occupied by said person as their domicile, of a person who owns the
6 same jointly with their spouse, either of whom is 65 years of age or over, and occupied as their
7 domicile, or of a person who owns the same jointly or as a tenant in common with a person not
8 their spouse and occupied by said person as their domicile; provided, that said person, or said
9 person and their spouse, if married, had, during the preceding year, gross receipts from all
10 sources not in excess of the amount of income for a single individual who is not head of

11 household or spouses filing a joint return, respectively, as determined by the commissioner of
12 revenue for the purposes of subsection (k) of section 6 of chapter 62. In computing the gross
13 receipts of such an applicant or of such an applicant and their spouse, if married, ordinary
14 business expenses and losses may be deducted but not personal and family expenses.

15 Any such person may, on or before the deadline for an application for exemption under
16 section 59, apply to the board of assessors for an exemption of such real property from taxation
17 during such year; provided, however, that in the case of real estate owned by a person jointly or
18 as a tenant in common with a person not such person's spouse, the exemption shall not exceed
19 that proportion of total valuation which the amount of such person's interest in such property
20 bears to the whole tax due. During each fiscal year, the board of assessors shall notify a property
21 owner, in writing and via telephone, who has previously entered into a tax deferral and recovery
22 agreement pursuant to this subsection, of the deadline to apply for exemption. The board of
23 assessors shall grant such exemption provided that the owner or owners of such real property
24 have entered into a tax deferral and recovery agreement with said board of assessors on behalf of
25 the city or town. The said agreement shall provide:

26 (1) that no sale or transfer of such real property may be consummated unless the taxes
27 which would otherwise have been assessed on such portion of the real property as is so exempt
28 have been paid, with interest at the rate of the greater of (i) the municipality's most recent
29 municipal bond rate if the municipality has bonded within the preceding 3 years or (ii) the most
30 recent bond rate of the commonwealth, or such lesser rate as may be determined by the
31 legislative body of the city or town, subject to its charter, no later than the beginning of the fiscal
32 year to which the tax relates;

33 (2) that the total amount of such taxes due, plus interest, for the current and prior years
34 does not exceed 50 per cent of the owner's proportional share of the full and fair cash value of
35 such real property;

36 (3) that upon the demise of the owner of such real property, the heirs-at-law, assignees or
37 devisees shall have first priority to said real property by paying in full the total taxes which
38 would otherwise have been due, plus interest; provided, however, if such heir-at-law, assignee or
39 devisee is a surviving spouse who enters into a tax deferral and recovery agreement under this
40 clause, payment of the taxes and interest due shall not be required during the life of such
41 surviving spouse. Any additional taxes deferred, plus interest, on said real property under a tax
42 deferral and recovery agreement signed by a surviving spouse shall be added to the taxes and
43 interest which would otherwise have been due, and the payment of which has been postponed
44 during the life of such surviving spouse, in determining the 50 per cent requirement of
45 subparagraph (2);

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

49 (5) that any joint owner or mortgagee holding a mortgage on such property has given
50 written prior approval for such agreement, which written approval shall be made a part of such
51 agreement.

52 In the case of each tax deferral and recovery agreement entered into between the board of
53 assessors and the owner or owners of such real property, said board of assessors shall forthwith
54 cause to be recorded in the registry of deeds of the county or district in which the city or town is

55 situated a statement of their action which shall constitute a lien upon the land covered by such
56 agreement for such taxes as have been assessed under the provisions of this chapter, plus interest
57 as hereinafter provided. A lien filed pursuant to this section shall be subsequent to any liens
58 securing a reverse mortgage, excepting shared appreciation instruments. The statement shall
59 name the owner or owners and shall include a description of the land adequate for identification.
60 Unless such a statement is recorded the lien shall not be effective with respect to a bona fide
61 purchaser or other transferee without actual knowledge of such lien. The filing fee for such
62 statement shall be paid by the city or town and shall be added to and become a part of the taxes
63 due.

64 In addition to the remedies provided by this clause, the recorded statement of the
65 assessors provided for in this clause shall have the same force and effect as a valid taking for
66 nonpayment of taxes under the provisions of section 53 of chapter 60, except that: (1) interest
67 shall accrue at the rate provided in this clause until the conveyance of the property or the
68 expiration of 1 year after the death of the person whose taxes have been deferred, after which
69 time interest shall accrue at the rate provided in section 62 of chapter 60; (2) no assignment of
70 the municipality's interest under this clause may be made pursuant to section 52 of chapter 60;
71 (3) no petition under section 65 of chapter 60 to foreclose the lien may be filed before the
72 expiration of 6 months from either the conveyance of the property or the expiration of 1 year
73 from the death of the person whose taxes have been deferred.

74 The board of assessors shall notify a property owner who has entered into a tax deferral
75 and recovery agreement pursuant to this subsection at least annually, in writing, of the current
76 balance owed under the agreement.

77 SECTION 2. Section 1 of this act shall apply to taxes assessed for fiscal years beginning
78 on or after July 1, 2025.