

**HOUSE . . . . . No. 3617****The Commonwealth of Massachusetts**

PRESENTED BY:

***Tommy Vitolo***

*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>Tommy Vitolo</i>	<i>15th Norfolk</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>
<i>John Barrett, III</i>	<i>1st Berkshire</i>
<i>Kathleen R. LaNatra</i>	<i>12th Plymouth</i>
<i>Smitty Pignatelli</i>	<i>4th Berkshire</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>
<i>Tram T. Nguyen</i>	<i>18th Essex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>

<i>Michael J. Soter</i>	<i>8th Worcester</i>
<i>Peter Capano</i>	<i>11th Essex</i>
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>

# HOUSE . . . . . No. 3617

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By Mr. Vitolo of Brookline, a petition (accompanied by bill, House, No. 3617) of Tommy Vitolo and others relative to senior property tax deferral. Revenue.

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## The Commonwealth of Massachusetts

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

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 is hereby amended by striking  
2   out clause Forty-first A and inserting in place thereof the following clause:-

3           Forty-first A, Real property, to an amount determined as hereinafter provided, of a person  
4   65 years of age or over and occupied by said person as their domicile, of a person who owns the  
5   same jointly with their spouse, either of whom is 65 years of age or over, and occupied as their  
6   domicile, or of a person who owns the same jointly or as a tenant in common with a person not  
7   their spouse and occupied by said person as their domicile; provided, that said person, or said  
8   person and their spouse, if married, had, during the preceding year, gross receipts from all  
9   sources not in excess of the amount of income for a single individual who is not head of  
10   household or a husband and wife filing a joint return, respectively, as determined by the  
11   commissioner of revenue for the purposes of subsection (k) of section 6 of chapter 62. In  
12   computing the gross receipts of such an applicant or of such an applicant and their spouse, if

13 married, ordinary business expenses and losses may be deducted but not personal and family  
14 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. The board of assessors shall grant such exemption provided that the  
21 owner or owners of such real property have entered into a tax deferral and recovery agreement  
22 with said board of assessors on behalf of the city or town. The said agreement shall provide:

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

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

33 (3) that upon the demise of the owner of such real property, the heirs-at-law, assignees or  
34 devisees shall have first priority to said real property by paying in full the total taxes which

would otherwise have been due, plus interest; provided, however, if such heir-at-law, assignee or devisee is a surviving spouse who enters into a tax deferral and recovery agreement under this clause, payment of the taxes and interest due shall not be required during the life of such surviving spouse. Any additional taxes deferred, plus interest, on said real property under a tax deferral and recovery agreement signed by a surviving spouse shall be added to the taxes and interest which would otherwise have been due, and the payment of which has been postponed during the life of such surviving spouse, in determining the 50 per cent requirement of subparagraph (2);

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

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

In the case of each tax deferral and recovery agreement entered into between the board of assessors and the owner or owners of such real property, said board of assessors shall forthwith cause to be recorded in the registry of deeds of the county or district in which the city or town is situated a statement of their action which shall constitute a lien upon the land covered by such agreement for such taxes as have been assessed under the provisions of this chapter, plus interest as hereinafter provided. A lien filed pursuant to this section shall be subsequent to any liens securing a reverse mortgage, excepting shared appreciation instruments. The statement shall name the owner or owners and shall include a description of the land adequate for identification.

57 Unless such a statement is recorded the lien shall not be effective with respect to a bona fide  
58 purchaser or other transferee without actual knowledge of such lien. The filing fee for such  
59 statement shall be paid by the city or town and shall be added to and become a part of the taxes  
60 due.

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

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

74 SECTION 2. Section 1 of this act shall apply to taxes assessed for fiscal years beginning  
75 on or after July 1, 2019.