

SENATE No. 01502

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 passage of the accompanying bill:

An Act providing taxpayers a hearing at the appellate tax board..

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|-----------------------------|-----------------------------------|
| <i>Michael J. Rodrigues</i> | <i>First Bristol and Plymouth</i> |
| <i>Paul Schmid, III</i> | <i>8th Bristol</i> |
| <i>David B. Sullivan</i> | <i>6th Bristol</i> |
| <i>Kevin Aguiar</i> | <i>7th Bristol</i> |
| <i>Patricia A. Haddad</i> | <i>5th Bristol</i> |

SENATE No. 01502

By Mr. Rodrigues, petition (accompanied by bill, Senate, No. 1502) of Sullivan, Schmid, Haddad and other members of the General Court for legislation to provide taxpayers a hearing at the appellate tax board [Joint Committee on Revenue].

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act providing taxpayers a hearing at the appellate tax board..

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. Chapter 59 of the General Laws is hereby amended by striking out section 64
2 and replacing it with the following new section:

3 Section 64. A person aggrieved by the refusal of assessors to abate a tax on personal
4 property at least one-half of which has been paid, or a tax on a parcel of real estate, may, within
5 three months after the date of the assessors' decision on an application for abatement as provided
6 in section sixty-three, or within three months after the time when the application for abatement is
7 deemed to be denied as hereinafter provided, appeal there from by filing a complaint with the
8 clerk of the county commissioners, or of the board authorized to hear and determine such
9 complaints, for the county where the property taxed lies, and if on hearing the board finds that
10 the property has been overrated and that the complainant has complied with all applicable
11 provisions of law, it shall make a reasonable abatement and an order as to cost; provided, that if

12 the tax due for the full fiscal year on a parcel of real estate is more than \$3,000, said tax shall not
13 be abated unless the full amount of said tax and interest due has been paid before the end of the
14 fiscal year or the filing of the complaint with the clerk of the county commissioners or the board
15 authorized to hear and determine such complaints, whichever is later; and provided further, that
16 for the purposes of this section a sum not less than the average of the tax assessed, reduced by
17 abatements, if any, for the three years next preceding the year of assessment may be deemed to
18 be the tax due, provided that a year in which no tax was due shall not be used in computing such
19 sum and if no tax was due in any of the three next three preceding years, the sum shall be the full
20 amount of said tax due, but the provisions of said section fifty-seven of said chapter fifty-nine
21 shall apply to the amount of the tax deemed to be due and the payment of said sum without
22 incurring any interest charges on any part thereof shall be deemed to be the payment of the tax.
23 No appeal may be taken under this section with respect to a tax on property in Revere or
24 Winthrop. Whenever a board of assessors, before which an application in writing for the
25 abatement of a tax is or shall be pending, fails to act upon said application, except with the
26 written consent of the applicant, prior to the expiration of three months from the date of filing of
27 such application it shall then be deemed to be denied and the assessors shall have no further
28 authority to act thereon; provided, that during the period allowed for the taking of an appeal
29 including instances where the application for abatement has been denied, the assessors may by
30 agreement with the applicant abate the tax in whole or in part in final settlement of said
31 application, and shall also have the authority granted to them by section seven of chapter fifty-
32 eight A to abate, in whole or in part, any tax as to which an appeal has been seasonably taken. If
33 the list of personal property required to be brought in to the assessors was not brought in within
34 the time specified in the notice required by section twenty-nine, no tax upon personal property

35 shall be abated unless the board appealed to finds good cause for this delay or unless the
36 assessors have so found as provided in section sixty-one, or unless such tax exceeds by fifty per
37 cent the amount which would have been assessed on such estate, if the list had been seasonably
38 brought in, and in such case only the excess over such fifty per cent shall be abated. A tax or
39 assessment upon real estate may be abated although no list of property was brought in within the
40 time specified by the notice required by section twenty-nine; provided, that the application for an
41 abatement of such tax or assessment included a sufficient description of the particular real estate
42 as to which an abatement is requested.

43 Upon the filing of a complaint under this section the clerk of the county commissioners
44 or the board authorized to hear and determine the same shall forthwith transmit a certified copy
45 of such complaint to the assessors and the assessors or the city solicitor or town counsel may
46 within thirty days after receipt of said copy give written notice to said clerk and to the
47 complainant that the town elects to have the same heard and determined by the appellate tax
48 board. If the assessed valuation of the property on which the tax complained of was assessed
49 does not exceed twenty thousand dollars and such property is occupied in whole or in part by the
50 complainant as his dwelling, contains not more than three units designed for dwelling purposes
51 and is in no part used for any other purposes, or if the assessed valuation of the property on
52 which the tax complained of was assessed does not exceed five thousand dollars and such
53 property is within the class of tangible personal property described in clause twentieth of section
54 five of chapter fifty-nine, the party making the election under this section to have the complaint
55 heard and determined by the appellate tax board shall, at the time of making such election, pay to
56 the clerk of the county commissioners a transfer fee of two dollars. Thereupon, the clerk of the
57 county commissioners or of the board authorized to hear and determine such complaints shall

58 forward the transfer fee and all papers with respect to such complaint then in the files of the
59 county commissioners or other such board to the clerk of the appellate tax board and proceedings
60 with respect to such complaint shall thenceforth be continued as provided in chapter fifty-eight A
61 under the formal procedure, except that complaints requiring the transfer fee of two dollars shall
62 be continued under the informal procedure under said chapter fifty-eight A, unless the
63 complainant files an election with the clerk of the appellate tax board that the complaint be heard
64 under the formal procedure within ten days after receiving the notice as hereinafter provided that
65 the complaint has been transferred to the appellate tax board. Upon the transfer of such
66 complaint to said board the clerk of said board shall send notice by registered mail to the
67 complainant that such complaint has been transferred, and the complainant shall, within ten days
68 after receiving such notice, pay to said board the entry fee as required by section seven of said
69 chapter fifty-eight A, except that the complainant shall not be required to pay any entry fee if the
70 provisions of this section relative to the payment of the transfer fee have been complied with.
71 Upon receipt of the entry fee or transfer fee herein provided for, the clerk of the appellate tax
72 board shall notify the respondent board of assessors that a complaint is pending against it. In case
73 the respondent desires to answer, it shall file an answer within thirty days of the receipt of notice
74 of the pendency of the complaint or within such further time as the board may allow. If upon
75 hearing it appears that the complainant has complied with all applicable provisions of law and
76 the appellate tax board finds that the complainant is duly entitled to an abatement, it may grant
77 him such reasonable abatement as justice may require, and shall enter an order directing the
78 treasurer of the town to refund said amount, if the tax sought to be abated has been paid, together
79 with all charges and interest at eight per cent on the amount of the abatement from the date of the

80 payment of the tax. The board may make such order with respect to the payment of costs as
81 justice may require.

82 If any complaint under this section is, after the period or date prescribed by this section,
83 delivered by United States mail, or by such alternative private delivery service as the county
84 commissioners or the board authorized to hear and determine such complaints, may permit, to
85 the clerk of the county commissioners, or to such board, the date of the United States postmark,
86 or other substantiating date mark permitted by the county commissioners or such board, affixed
87 on the envelope or other appropriate wrapper in which such complaint is mailed or delivered
88 shall be deemed to be the date of delivery, if such complaint was mailed in the United States in
89 an envelope or such appropriate wrapper, first class postage prepaid, or delivered to such
90 alternative private delivery service, properly addressed to the county commissioners or the board
91 authorized to hear and determine such complaints. As used in this section, “United States
92 postmark” shall mean only a postmark made by the United States post office.