

SENATE No. 2406

Senate, June 15, 2023 -- Text of the Senate amendment to the House Bill to improve the Commonwealth's competitiveness, affordability, and equity (House, No. 3770) (being the text of Senate, No. 2397, printed as amended)

The Commonwealth of Massachusetts

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

1 SECTION 1. Section 5K of chapter 59 of the General Laws, as appearing in the 2020
2 Official Edition, is hereby amended by striking out, in lines 14 and 39, the figure "\$1,500" and
3 inserting in place thereof, in each instance, the following figure:- \$2,000.

4 SECTION 2. Said chapter 59 is hereby further amended by inserting after section 5N the
5 following section:-

6 Section 5O. (a) In any city or town that accepts this section, the board of selectmen of the
7 town, the town council of a municipality having a town council form of government or the
8 mayor of a city, with the approval of the city council, may establish a property tax exemption for
9 real property classified as Class One, residential in the city or town. To qualify for the
10 exemption, the property shall be: (i) rented at an affordable housing rate, as determined by the
11 city or town and in accordance with the United States Department of Housing and Urban
12 Development guidance and regulations; (ii) rented on a yearly basis; and (iii) occupied year-
13 round by a person or persons whose household income does not exceed an amount to be set by
14 the city or town; provided, however, that said income shall not be more than 200 per cent of the
15 area median income. The property tax exemption shall be for an amount determined by the city

16 or town; provided, however, that the amount shall not be more than the tax otherwise due on the
17 parcel based on the full and fair assessed value multiplied by the square footage of the housing
18 units rented and occupied by a person or persons whose household income is not more than the
19 income limit set pursuant to clause (iii), divided by the total square footage of a structure located
20 on the parcel. Assessment of property seeking an exemption under this section, if by an income
21 approach to value, shall assume fair market rent for all units. The property owner seeking the
22 exemption shall submit to the city or town any documentation the city or town deems necessary,
23 including, but not limited to, a signed lease and proof of the occupying person or persons'
24 household income, to confirm the eligibility of the property for the exemption under this section.

25 (b) A municipality may adopt ordinances or by-laws to implement this section.

26 SECTION 3. Section 3 of chapter 62 of the General Laws is hereby amended by striking
27 out, in line 109, as appearing in the 2020 Official Edition, the figure "\$3,000" and inserting in
28 place thereof the following figure:- \$4,000.

29 SECTION 4. Said section 3 of said chapter 62 is hereby further amended by striking out,
30 in lines 158 and 159, as so appearing, the words "weekly or monthly transit commuter passes"
31 and inserting in place thereof the following words:- fares.

32 SECTION 5. Said section 3 of said chapter 62 is hereby further amended by inserting
33 after the word "boat", in line 160, as so appearing, the following words:- , or for regional transit
34 authority fares, or for bikeshare memberships, or for bicycles, including electric bikes, or for
35 bicycle improvements, repair and storage, or for any fare for a commuter boat owned, operated
36 or contracted by a municipality, public or quasi-public entity, agency or authority.

37 SECTION 6. Paragraph (a) of part B of said section 3 of said chapter 62, as amended by
38 section 24 of chapter 24 of the acts of 2021, is hereby further amended by adding the following
39 subparagraph:-

40 (20) An amount equal to the amount of student loan payment assistance received by an
41 individual from their employer during the taxable year not already excluded under section 127 of
42 the Code. For the purposes of this subparagraph, “student loan payment assistance” shall mean
43 the payment of principal or interest on a qualified education loan, as defined in section 221 of the
44 Code.

45 SECTION 7. Section 6 of said chapter 62 is hereby amended by striking out, in line 75,
46 as appearing in the 2020 Official Edition, the words “one thousand five hundred dollars” and
47 inserting in place thereof the following figure:- \$3,000.

48 SECTION 8. Said section 6 of said chapter 62 is hereby further amended by striking out,
49 in line 86, as so appearing, the words “five hundred dollars” and inserting in place thereof the
50 following figure:- \$1,000.

51 SECTION 9. Said section 6 of said chapter 62 is hereby further amended by striking out,
52 in lines 245 and 250, as so appearing, the figure “30” and inserting in place thereof, in each
53 instance, the following figure:- 40.

54 SECTION 10. Said section 6 of said chapter 62 is hereby further amended by striking
55 out, in line 269, as so appearing, the figure “40” and inserting in place thereof the following
56 figure:- 60.

57 SECTION 11. Said section 6 of said chapter 62 is hereby further amended by striking
58 out, in lines 271 and 272, as so appearing, the words “as promulgated by the department of
59 environmental protection in 1995” and inserting in place thereof the following words:- of the
60 State Environmental Code.

61 SECTION 12. Said section 6 of said chapter 62 is hereby further amended by striking
62 out, in line 273, as so appearing, the figure “\$15,000” and inserting in place thereof the following
63 figure:- \$30,000.

64 SECTION 13. Said section 6 of said chapter 62 is hereby further amended by striking
65 out, in line 277, as so appearing, the figure “\$1,500” and inserting in place thereof the following
66 figure:- \$4,000.

67 SECTION 14. Said section 6 of said chapter 62 is hereby further amended by striking
68 out, in line 279, as so appearing, the figure “\$6,000” and inserting in place thereof the following
69 figure:- \$18,000.

70 SECTION 15. Said section 6 of said chapter 62 is hereby further amended by striking
71 out, in line 290, as so appearing, the figure “2023” and inserting in place thereof the following
72 figure:- 2028.

73 SECTION 16. Said section 6 of said chapter 62 is hereby further amended by striking
74 out, in line 296, as so appearing, the figure “2024” and inserting in place thereof the following
75 figure:- 2029.

76 SECTION 17. Paragraph (4) of subsection (j) of said section 6 of said chapter 62, as so
77 appearing, is hereby amended by adding the following sentence:- For the purposes of the

78 Brownfields Redevelopment Fund, “state financial assistance” shall mean the amount of any
79 grant or principal amount of any loan, but shall not include any loan principal repaid as of the
80 date the credit application is filed with the commissioner. Net response and removal costs shall
81 not include any reimbursement that is received, or will be received, by the applicant, or any
82 amounts paid on behalf of the applicant from any source for these costs.

83 SECTION 18. Said section 6 of said chapter 62 is hereby further amended by striking
84 out, in line 447, as so appearing, the figure “\$750” and inserting in place thereof the following
85 figure:- \$1,500.

86 SECTION 19. Said section 6 of said chapter 62 is hereby further amended by striking
87 out, in line 732, as so appearing, the figure “\$6,000,000” and inserting in place thereof the
88 following figure:- \$8,000,000.

89 SECTION 20. Subsection (q) of said section 6 of said chapter 62 is hereby amended by
90 striking out paragraph (5), as so appearing, and inserting in place thereof the following
91 paragraph:-

92 (5) EOHLC may authorize not more than \$30,000,000 in credits annually under this
93 subsection and section 38BB of chapter 63. EOHLC may authorize annually any credits under
94 this subsection or said section 38BB of said chapter 63 returned to EOHLC by a certified
95 housing development project. The total amount of credits authorized during a year shall include:
96 (1) credits granted during the year pursuant to this subsection or said section 38BB of said
97 chapter 63; and (2) carry forwards of credits from prior years pursuant to this subsection or said
98 section 38BB of said chapter 63, to the extent that such credit carry forwards are estimated by the
99 commissioner to offset tax liabilities during the year. Any portion of the \$30,000,000 annual cap

100 not awarded by EOHLC in a calendar year shall not be applied to awards in a subsequent year.
101 EOHLC shall provide the commissioner of revenue with any documentation that the
102 commissioner deems necessary to confirm compliance with the annual cap and the commissioner
103 shall provide a report confirming compliance with the annual cap to the secretary of
104 administration and finance and the secretary of housing and economic development.

105 SECTION 21. Said section 6 of said chapter 62 is hereby further amended by inserting
106 after the figure “31-33”, in line 1158, as so appearing, the following words:- and other expansion
107 industries the secretary of labor and workforce development identifies as critical to a regional
108 labor market economy.

109 SECTION 22. Said section 6 of said chapter 62 is hereby further amended by striking out
110 subsections (x) and (y), as most recently amended by sections 30 to 33, inclusive, of chapter 102
111 of the acts of 2021, and inserting in place thereof the following subsection:-

112 (x) For the purposes of this subsection, “maintains a household” shall have the same
113 meaning as in section 21 of the Code. With respect to a taxpayer who is a non-resident for part of
114 the taxable year, the credit shall be further limited to the amount of allowable credit multiplied
115 by a fraction, the numerator of which shall be the number of days in the taxable year the person
116 resided in the commonwealth and the denominator of which shall be the number of days in the
117 taxable year. A taxpayer who maintains a household that includes as a member at least 1
118 individual: (i) under the age of 13 who qualifies for exemption as a dependent under section 151
119 of the Code; (ii) who is a qualifying individual as defined in said section 21 of the Code; or (iii)
120 at least 1 individual: (A) who is not less than 65 years of age or who is disabled; and (B) who
121 qualifies as a dependent under section 152 of the Code, shall be allowed a credit in an amount

122 equal to \$310 for each such dependent or qualifying individual with respect to the taxpayer;
123 provided, however, that if the taxpayer is married at the close of the taxable year, the credit
124 provided in this subsection shall be allowed if: (a) the taxpayer and the taxpayer's spouse file a
125 joint return for the taxable year; or (b) the taxpayer qualifies as a head of household under
126 section 2(b) of the Code. A person who is a non-resident for the entire taxable year shall not
127 qualify for the credit. If the amount of the credit allowed under this subsection exceeds the
128 taxpayer's tax liability, the commissioner shall treat the excess as an overpayment and shall pay
129 the taxpayer the entire amount of the excess without interest.

130 SECTION 23. Section 6I of said chapter 62 is hereby amended by striking out, in line 70,
131 as so appearing, the figure "\$40,000,000" and inserting in place thereof the following figure:-
132 \$60,000,000.

133 SECTION 24. Section 6 of chapter 62C of the General Laws, as so appearing, is hereby
134 amended by striking subsection (a) and inserting in place thereof the following subsection:-

135 (a)(1) Every individual inhabitant of the commonwealth who receives or accrues during
136 the taxable year Massachusetts gross income, as defined in section 2 of chapter 62, in excess of
137 \$8,000 shall make a return of such income.

138 Every nonresident whose Massachusetts gross income, determined in accordance with
139 section 5A of chapter 62, exceeds \$8,000 or the personal exemption to which such nonresident
140 may be entitled under section 3 of said chapter 62, whichever is the lesser, and every partnership,
141 association or trust whose federal gross income, as defined in section 1 of said chapter 62,
142 exceeds one \$100, shall make a return of such income.

143 Every individual, not otherwise required to file a return under this subsection, who is a
144 resident for a portion of a 12-month period beginning on the first day of a taxable year and a
145 nonresident for a portion of the same 12-month period and whose Massachusetts gross income,
146 as defined in section 2 of chapter 62, exceeds \$8,000 shall make separate returns as a resident
147 and a nonresident of his income subject to taxation under said chapter 62.

148 (2) A married couple shall file a joint return for any year in which they file a joint federal
149 income tax return. In cases where 1 spouse or both spouses are non-residents of the
150 commonwealth and have items of income, exemptions or deductions unrelated to their
151 Massachusetts income, the department shall provide by regulation for appropriate adjustments or
152 for exemption from the requirement to file a joint return.

153 SECTION 25. Section 5 of chapter 62F of the General Laws, as so appearing, is hereby
154 amended by adding the following subsection:-

155 (e) Monthly, the department of revenue shall submit a report to the clerks of the senate
156 and the house of representatives, the joint committee on revenue and the senate and house
157 committees on ways and means on net state tax revenue for the current fiscal year, projections
158 for net state tax revenue for the remainder of said fiscal year and an estimate of if, and when, net
159 state tax revenue may exceed allowable state tax revenue for said fiscal year.

160 SECTION 26. Section 38Q of chapter 63 of the General Laws, as so appearing, is hereby
161 amended by striking out, in line 3, the figure "2023" and inserting in place thereof the following
162 figure:- 2028.

163 SECTION 27. Said section 38Q of said chapter 63, as so appearing, is hereby further
164 amended by striking out, in line 9, the figure “2024” and inserting in place thereof the following
165 figure:- 2029.

166 SECTION 28. Subsection (d) of said section 38Q of said chapter 63, as so appearing, is
167 hereby amended by adding the following sentence:- For the purpose of the Brownfields
168 Redevelopment Fund, “state financial assistance” shall mean the amount of any grant or
169 principal amount of any loan, but shall not include any loan principal repaid as of the date the
170 credit application is filed with the commissioner. Net response and removal costs shall not
171 include any reimbursement that is received, or will be received, by the applicant, or any amounts
172 paid on behalf of the applicant from any source for these costs.

173 SECTION 29. Section 38Z of said chapter 63, as so appearing, is hereby amended by
174 striking out, in line 28, the figure “\$6,000,000” and inserting in place thereof the following
175 figure:- \$8,000,000.

176 SECTION 30. Section 38BB of said chapter 63 is hereby amended by striking out
177 subdivision (5), as so appearing, and inserting in place thereof the following subdivision:-

178 (5) EOHLC may authorize up to \$30,000,000 in credits annually under this section and
179 subsection (q) of section 6 of chapter 62. EOHLC may authorize annually any credits under this
180 section or said subsection (q) of said section 6 of said chapter 62 returned to EOHLC by a
181 certified housing development project. The total amount of credits authorized during a year shall
182 include: (1) credits granted during the year under this section or said subsection (q) of section 6
183 of chapter 62; and (2) carry forwards of credits from prior years under this section or said
184 subsection (q) of section 6 of chapter 62, to the extent that such credit carry forwards are

185 estimated by the commissioner of revenue to offset tax liabilities during the year. Any portion of
186 the \$30,000,000 annual cap not awarded by EOHLC in a calendar year shall not be applied to
187 awards in a subsequent year. EOHLC shall provide the commissioner of revenue with any
188 documentation that the commissioner deems necessary to confirm compliance with the annual
189 cap and the commissioner shall provide a report confirming compliance with the annual cap to
190 the secretary of administration and finance and the secretary of housing and economic
191 development.

192 SECTION 31. Section 38HH of said chapter 63, as so appearing, is hereby amended by
193 inserting after the figure “31-33”, in line 18, the following words:- or other expansion industries
194 the secretary of labor and workforce development identifies as critical to a regional labor market
195 economy.

196 SECTION 32. Section 2A of chapter 65C of the General Laws, as so appearing, is hereby
197 amended by striking out subsection (a) and inserting in place the following subsection:-

198 (a) A tax is hereby imposed upon the transfer of the estate of each person dying on or
199 after January 1, 1997 who, at the time of death, was a resident of the commonwealth. The
200 amount of the tax shall be equal to the credit for state death taxes that would have been allowable
201 to a decedent’s estate as computed under section 2011 of the Code, as in effect on December 31,
202 2000, hereinafter referred to as the “credit”. If the federal gross estate of a person includes real or
203 tangible personal property located outside of the commonwealth at the time of death, the tax
204 shall be reduced by an amount equal to the proportion of such allowable credit as the value of
205 such real or tangible personal property located outside of the commonwealth bears to the value

206 of the entire federal gross estate wherever situated, as determined under section 2011 of the
207 Code, as in effect on December 31, 2000.

208 SECTION 33. Said section 2A of said chapter 65C, as so appearing, is hereby further
209 amended by adding the following 2 subsections:-

210 (f) For the estates of decedents dying on or after January 1, 2023, a credit shall be
211 allowed against the tax imposed by subsections (a) and (b) equal to the amount of such tax;
212 provided, however, that the credit shall not exceed \$99,600.

213 (g) The estates of decedents dying on or after January 1, 2023 shall not be required to pay
214 any tax under subsections (a) and (b) if the value of the federal taxable estate is not more than
215 \$2,000,000.

216 SECTION 34. Section 21 of chapter 138 of the General Laws, as so appearing, is hereby
217 amended by striking out, in lines 20 and 21, the words “six per cent of alcohol by weight” and
218 inserting in place thereof the following words:- 8½ per cent of alcohol by volume.

219 SECTION 35. Said section 21 of said chapter 138, as so appearing, is hereby further
220 amended by striking out, in line 25, the word “six” and inserting in place thereof the following
221 figure:- 8 ½.

222 SECTION 36. Sections 46, 48, 61, 63 and 124A of chapter 287 of the acts of 2014 are
223 hereby repealed.

224 SECTION 37. Chapter 358 of the acts of 2020 is hereby amended by striking out section
225 59.

226 SECTION 38. Section 112 of said chapter 358 is hereby amended by striking the words
227 “Sections 59 and” and inserting in place thereof the following word:- Section.

228 SECTION 39. Notwithstanding any general or special law to the contrary, in calendar
229 year 2023, the executive office of housing and livable communities may authorize not more than
230 \$57,000,000 in credits under subsection (q) of section 6 of chapter 62 of the General Laws and
231 section 38BB of chapter 63 of the General Laws. Any portion of this amount that is not
232 authorized in calendar year 2023 shall be added to the amount the executive office of housing
233 and livable communities may authorize in subsequent years under said subsection (q) of said
234 section (6) of said chapter 62 and said section 38BB of said chapter 63.

235 SECTION 40. The executive office for administration and finance shall conduct a study
236 on the feasibility of creating a program of advance quarterly payments to taxpayers for credits
237 that the department of revenue estimates would be treated as allowed for a taxpayer under
238 subsection (x) of section 6 of chapter 62 of the General Laws for a taxable year. The study shall
239 include, but not be limited to: (i) an operational plan for how the department of revenue could
240 establish and maintain such a program; (ii) a description of the processes by which the
241 department could collect information from taxpayers and from other agencies to maximize the
242 accuracy of the department’s estimate of the amount that would be treated as allowed for a
243 taxpayer under said subsection (x) of said section 6 of said chapter 62 for a taxable year; (iii) a
244 description of the options for maximizing participation in such a program by taxpayers who are
245 eligible for credits under said subsection (x) of said section 6 of said chapter 62; (iv) an analysis
246 of any other credits against tax included in said section 6 of said chapter 62 that the department
247 could include in an advance quarterly payment program; (v) potential challenges to the
248 establishment of such a program and strategies by which the department could address those

249 challenges; (vi) any legislative recommendations to support the establishment of such a program,
250 if applicable; and (vii) an estimate of the funds that would be necessary for the department to
251 establish and maintain such a program, if applicable.

252 The executive office shall submit a report of its findings to the house and senate
253 committees on ways and means not later than January 1, 2024.

254 SECTION 41. Notwithstanding any general or special law to the contrary, the department
255 of revenue shall analyze the potential impact of implementing an additional, elective entity-level
256 tax of up to 4 per cent on a portion of qualified taxable income in the commonwealth of eligible
257 pass-through entities defined in section 1 of chapter 63D of the General Laws, coupled with a
258 refundable tax credit. The analysis shall consider: (i) the impacts on the commonwealth's
259 taxpayers and tax revenue; (ii) the feasibility of administering the additional elective tax; (iii) the
260 feasibility of determining the portion of qualified income taxable in the commonwealth pursuant
261 to this section based on: (A) an annual threshold tied to the threshold under Article XLIV of the
262 Amendments of the Constitution; or (B) the consent of each qualified member to have a portion
263 of the member's share of qualified income taxable in the commonwealth subject to the additional
264 tax; (iv) passthrough entity tax regimes in other states; and (v) the impact of any tax on qualified
265 members with taxable income below the annual threshold under said Article XLIV.

266 The department of revenue shall submit a report of its findings to the clerks of the senate
267 and house of representatives, the joint committee on revenue and the senate and house
268 committees on ways and means not later than October 1, 2023.

269 SECTION 42. The department of revenue, in consultation with the executive office of
270 housing and livable communities, shall conduct a study on establishing a closing costs assistance

271 program to be operated in tandem with a first-time homebuying savings program for income-
272 eligible first-time homebuyers. The study shall include, but not be limited to: (i) an analysis of
273 the impact that such a program would have for first-time homebuyers; (ii) an analysis of the
274 funding necessary to make such a program effective; (iii) recommendations on any income
275 restriction for recipients of grants awarded from such a program that would make the program
276 most impactful; (iv) an assessment of best practices for partnering with financial institutions to
277 implement first-time homebuyer savings accounts; (v) any anticipated cost or revenue impact to
278 the commonwealth associated with such an assistance and savings program; and (vi) the
279 feasibility of and a detailed plan to implement such programs. The department of revenue shall
280 submit its findings and recommendations to the clerks of the senate and house of representatives,
281 the senate and house committees on ways and means and the joint committee on housing not
282 later than January 1, 2024.

283 SECTION 43. Sections 3, 9 and 18 shall apply to tax years beginning on or after January
284 1, 2023.

285 SECTION 44. Sections 20 and 30 shall take effect as of January 1, 2024.

286 SECTION 45. Section 24 shall apply to tax years beginning on or after January 1, 2023.

287 SECTION 46. Sections 32 and 33 shall take effect for the estates of decedents dying on
288 or after January 1, 2023.

289 SECTION 47. Except as otherwise specified, this act shall take effect for taxable years
290 beginning on or after January 1, 2023.