

HOUSE No. 4534

Substituted by the House, Representatives Binienda of Worcester and Balser of Newton, for a bill with the same title (House, No. 2840). February 13, 2008.

The Commonwealth of Massachusetts

In the Year Two Thousand and Eight.

AN ACT TO CREATE AN EXEMPTION FOR LOW-INCOME SENIORS FROM PROPOSITION TWO AND ONE HALF OVERRIDES.

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. DEFINITIONS.

2 “PROPERTY TAX” is the amount due and payable in any year
3 on real property before any exemptions and not including special
4 assessments, interest, and penalties for delinquent taxes.

5 “QUALIFYING PROPERTY” must be the applicant’s principal
6 residence (actually and continually occupied as his or her per-
7 manent residence) which constitutes the applicant’s domicile and
8 can be:— 1.) A single family dwelling house and the land on
9 which it is located that is owned by the applicant; or 2.) A single
10 family dwelling house owned by the applicant which is on land
11 owned by someone else; or 3.) A condominium unit.

12 “BASE YEAR” is the first fiscal year in which the applicant
13 meets all qualification requirements. For a resident who first
14 became eligible between July 1, 2006, and June 30, 2007, the base
15 year is 2007. For an applicant who first became eligible after
16 June 30, 2007, the year in which he/she becomes eligible will be
17 the base year.

1 SECTION 7. FREEZING MUNICIPAL REAL ESTATE
2 TAXES ON THE QUALIFYING PROPERTY OF QUALIFYING
3 APPLICANTS.

4 Notwithstanding the provisions of Chapter fifty-nine of Massa-
5 chusetts General Laws or any other general or special law to the

6 contrary, no person who meets all qualification requirements
7 defined in 7 Section 3 hereof shall be assessed for PROPERTY
8 TAX in any year which is greater in amount than the PROPERTY
9 TAX assessed on such QUALIFYING PROPERTY in the BASE
10 YEAR; provided, however, that the PROPERTY TAX freeze pro-
11 gram established herein shall be subject to annual approval by the
12 City Council.

1 SECTION 8. APPLICANT QUALIFICATION REQUIRE-
2 MENTS.

3 In order to qualify for the PROPERTY TAX freeze granted in
4 this act, the applicant must meet the following qualification
5 requirements:—

6 A.) The applicant has attained the age of seventy-five (75); and

7 B.) The applicant has owned and lived in a Marlborough home
8 for at least the last twenty-five (25) consecutive years ending with
9 the date of assessment for the year for which the freeze is claimed
10 and has paid property taxes to the City of Marlborough for each of
11 those years; and

12 C.) The applicant has paid the full amount of property taxes
13 that were due on the QUALIFYING PROPERTY for the base year
14 and for all years preceding the year he/she is claiming the freeze;
15 and

16 D.) The applicant satisfies all qualifications for a Residential
17 Exemption, whether or not approved by the City Council, as spec-
18 ified in MGL Chapter 59, Sec. 5C; and

19 E.) The applicant's QUALIFYING PROPERTY is his/her only
20 real property. Second homes, summer homes and investment or
21 rental properties would result in disqualification; and

22 F.) If the applicant's home is held in trust, the applicant can
23 only satisfy the ownership interest if he/she is a trustee or co-
24 trustee of that trust, and possesses a sufficient beneficial interest
25 in the domicile through that trust. Splitting the interest between
26 multiple trusts does not qualify; and

27 G.) The applicant receives no rental income from boarders or
28 renters; and

29 H.) The applicant's total household income does not exceed
30 qualifying income levels for the Senior "Circuit Breaker" Income
31 Tax Credit (or a successor program established by the General

32 Court.) If the Circuit Breaker credit is discontinued and no suc-
33 cessor program is established, income limits shall be based on the
34 final Circuit Breaker income levels adjusted by a cost of living
35 adjustment (COLA) as approved annually by the City Council.

1 SECTION 9. IMPLEMENTATION.

2 A.) The applicant must file for the PROPERTY TAX freeze on
3 an annual basis after July 1 of the fiscal year in which the appli-
4 cant attains the age of seventy-five (75) and no later than
5 March 31 of the fiscal year in which he/she would qualify.

6 B.) The applicant must complete an affidavit and questionnaire
7 form available in the Assessor's Office.

8 C.) In order to establish the income requirement, the applicant
9 must provide a copy of his/her most recent income tax return or, if
10 no income tax return was filed, a notarized affidavit stating so.

11 D.) If the property is held by the applicant with others as ten-
12 ants in common or joint tenants (except in the case of married per-
13 sons), the applicant is only eligible for the proportionate share of
14 the PROPERTY TAX freeze which reflects his/her percentage of
15 owner ship, as reflected in the property's deed.

1 SECTION 10. TRANSFERABILITY/PORTABILITY.

2 A.) Transferability to Surviving Spouse. The PROPERTY TAX
3 freeze is transferable to a surviving spouse who is at least 70 years
4 of age and continues to meet all other qualifications.

5 B.) Portability (transfer from home to home). The PROPERTY
6 TAX freeze may transfer to a new QUALIFYING PROPERTY
7 within the City of Marlborough. If the PROPERTY TAX on the
8 new QUALIFYING PROPERTY is greater than that on the old
9 QUALIFYING PROPERTY, the increase in the PROPERTY TAX
10 owed on the new QUALIFYING PROPERTY would be limited
11 according to the ratio established between the PROPERTY TAX
12 at which the old QUALIFYING PROPERTY had been frozen and
13 the actual (nonfrozen) PROPERTY TAX on the old QUALI-
14 FYING PROPERTY. If the PROPERTY TAX on the new QUALI-
15 FYING PROPERTY is less than that on the old QUALIFYING
16 PROPERTY, the PROPERTY TAX owed on the new QUALI-
17 FYING PROPERTY would be calculated according to the PROP-
18 ERTY TAX ratio established for the old QUALIFYING
19 PROPERTY

1 SECTION 11. SEVERABILITY.

2 If any provisions of these sections or the application of such
3 provisions to any person or circumstance shall be held invalid by
4 a court of competent jurisdiction, the validity of the remainder of
5 these sections and the applicability of such provisions to other
6 persons or circumstances shall not be affected thereby.

1 SECTION 12. EFFECTIVE DATE.

2 The provisions of these sections shall be effective immediately
3 upon passage