

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Mr. Brewer

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 relative to property tax deferments for senior citizens in the town of Winchendon.

PETITION OF:

NAME:

Mr. Brewer

DISTRICT/ADDRESS:

Worcester, Hampden, Hampshire and Franklin

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S02327 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO PROPERTY TAX DEFERMENTS FOR SENIOR CITIZENS IN THE
TOWN OF WINCHENDON.

*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. (a) The town of Winchendon may defer payment of real estate taxes on real
2 property, to an amount determined as hereinafter provided, of: a person 70 years of age or over
3 and occupied by him as his domicile; of a person who owns the same jointly with his spouse,
4 either of whom is 70 years of age or over, and occupied as their domicile; or of a person 70 years
5 of age or over who owns the same jointly or as a tenant in common with a person not his spouse
6 and occupied by him as his domicile. A deferment shall only be made if such person has been
7 domiciled in the commonwealth for the preceding 10 years and:
8 (1) has so owned and occupied as his domicile such real property or other real property in the
9 commonwealth for 5 years; or

10 (2) is a surviving spouse who inherits such real property and has occupied such real property or
11 other real property in the commonwealth as his domicile for 5 years and who otherwise qualifies
12 under this act; and provided further that such person, or such person and his spouse, if married,
13 had, during the preceding year, gross receipts from all sources not in excess of \$20,000. The
14 town of Winchendon may also, by vote of the board of selectmen, adopt a higher maximum
15 qualifying gross receipts amount for the purposes of this act. Such maximum qualifying gross
16 receipts amount shall not exceed \$40,000.

17 (b) In determining the total period of ownership of an applicant for exemption under this act, the
18 time during which the same property was owned by a husband or wife individually shall be
19 added to the period during which such property was owned by said husband and wife jointly. In
20 computing the gross receipts of such an applicant or of such an applicant and his spouse, if
21 married, ordinary business expenses and losses may be deducted but not personal and family
22 expenses. For the purposes of this act, the date of determination as to age, ownership or other
23 qualifying factors shall be July first of each year, unless another meaning is clearly apparent
24 from the context.

25 (c) Any such person may, on or before December fifteenth of each year to which the tax relates
26 or within 3 months after the date on which the bill or notice is first sent, whichever is later, apply
27 to the board of assessors for a deferment of all or part of such real property from taxation during
28 such year; provided, however, that in the case of real estate owned by a person jointly or as a
29 tenant in common with a person not his spouse, the deferment shall not exceed that proportion of
30 total valuation which the amount of his interest in such property bears to the whole tax due. The
31 board of assessors shall grant such deferment if the owner or owners of such real property have

32 entered into a tax deferral and recovery agreement with the board of assessors on behalf of the
33 town. The agreement shall provide that:

34 (1) no sale or transfer of such real property may be consummated unless the deferred taxes
35 which would otherwise have been assessed and paid on such portion of the real property as is so
36 deferred have been paid, with interest at the rate of the prime interest rate minus 1 per cent per
37 annum or such lesser rate as may be determined by the board of selectmen of the town, subject to
38 its charter, not later than the beginning of the fiscal year to which the tax relates;

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

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

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

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

56 (d) In the case of each tax deferral and recovery agreement entered into between the board of
57 assessors and the owner or owners of such real property, the board of assessors shall forthwith
58 cause to be recorded in the Worcester county registry of deeds a statement of its action, which
59 shall constitute a lien upon the land covered by such agreement for such taxes as have been
60 assessed under this act, plus interest as hereinafter provided. A lien filed pursuant to this act shall
61 be subsequent to any liens securing a reverse mortgage, excepting shared appreciation
62 instruments. The statement shall name the property owner or owners and shall include a
63 description of the land adequate for identification. Unless such a statement is recorded, the lien
64 shall not be effective with respect to a bona fide purchaser or other transferee without actual
65 knowledge of such lien. The filing fee for such statement shall be paid by the city or town and
66 shall be added to and become a part of the taxes due.

67 (e) In addition to the remedies provided by this act, the recorded statement of the assessors
68 provided for in this act shall have the same force and effect as a valid taking for nonpayment of
69 taxes under section 53 of chapter 60 of the General Laws, except that: (1) interest shall accrue at
70 the rate provided in this act until the conveyance of the property or the death of the person whose
71 taxes have been deferred, after which time interest shall accrue at the rate provided in section 62
72 of said chapter 60; (2) no assignment of the municipality's interest under this act shall be made

73 pursuant to section 52 of said chapter 60; (3) no petition under section 65 of said chapter 60 to
74 foreclose the lien shall be filed before the expiration of 6 months from the conveyance of the
75 property or the death of the person whose taxes have been deferred.