SENATE DOCKET, NO. 346 FILED ON: 1/19/2011

SENATE . . . . . No. 1551

The Commonwealth of Massachusetts

PRESENTED BY:

James E. Timilty

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:

An Act relative to reducing the tax burden on seniors.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
James E. Timilty	☐ *[District]* ☐
Robert L. Hedlund	☐ *[District]* ☐

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SENATE . . . . . No. 1551

By Mr. Timilty, a petition (accompanied by bill, Senate, No. 1551) of James E. Timilty and Robert L. Hedlund for legislation relative to reducing the tax burden on seniors. Revenue.

The Commonwealth of Massachusetts

An Act relative to reducing the tax burden on seniors.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 5 of chapter 59 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting after the word "agreement.", in line 1018, the following paragraph:-

A city or town which accepts this paragraph may enter into a tax deferral plan with the commonwealth under which the commonwealth shall pay to the city or town the amount of the exemption granted under the tax deferral and recovery agreement between the board of assessors and the owner or owners of the real property, but that agreement shall provide for annual interest at the rate of 5 per cent. Upon the death of the owner of the property, or upon the death of the surviving spouse where applicable under clause (3) of the previous paragraph, payment of the deferred taxes, plus accrued interest, shall be made to the commonwealth.

and is further amended by adding the following paragraph: -

Notwithstanding any general or special law to the contrary, upon acceptance of this paragraph by a city or town, the board of assessors shall annually reduce the property tax on the real property of a person who has reaches his seventieth birthday before the fiscal year for which the tax is due, and has lived in the municipality for 30 years or longer, to the amount of tax due on the property in the fiscal year prior to the person reaching the age of 70, if the person occupies the real estate as his domicile or occupies the same jointly with his spouse.

SECTION 2. Chapter 60 of the General Laws is hereby amended by inserting the following new section:--Section 37C Security Interest on taxable personal property

Taxes assessed upon personal property under the provisions of chapter fifty-nine, including section eighteen, with all accrued interest, incidental charges and fees provided for in chapter fifty-nine, and other provisions of this chapter shall be a security interest in the personal property so taxed, as well as all after acquired consumer goods, equipment and

24 inventory and the proceeds from the sale of any such personal property until the security interest
25 is terminated as provided in this section.

26 The assessment of personal property taxes by a municipal board of assessors
27 shall have the force and effect of a signed security agreement under the provisions of chapter one
28 hundred-six, hereinafter referred to in this section as "the Uniform Commercial Code." The
29 security interest shall have the force and effect of an unperfected security interest in accordance
30 with the provisions of the Uniform Commercial Code and once perfected shall have the force
31 and effect of a perfected security interest in accordance with the provisions of the Uniform
32 Commercial Code.

33 The unperfected security interest shall be perfected upon: (1) nonpayment of
34 the tax, including partial nonpayment, fourteen days after the mailing of a demand in accordance
35 with section sixteen of this chapter; and, (2) the filing of a financing statement by the municipal
36 collector at the office of the state secretary in accordance with the provisions of the Uniform
37 Commercial Code, provided that the collector may file a financing statement no earlier than
38 fourteen days following the mailing of a demand to the taxpayer.

39 The collector shall, upon perfection of the security interest, add the cost of
40 filing the financing statement and the cost of filing a termination statement plus an additional fee
41 of five dollars for the preparation of the financing statement and an additional fee of five dollars
42 for the preparation of a termination statement to the balance due.

43 If it appears to the collector that a filed financing statement is going to lapse,
44 the collector shall file a continuation statement, as well as succeeding continuation statements in
45 accordance with the provisions of the Uniform Commercial Code, to continue the effectiveness
46 of the initial financing statement, adding to the balance due the cost of filing each necessary
47 continuation statement plus a fee of five dollars for their preparation.

48 Once the balance due, including the tax, accrued interest, incidental charges,
49 and fees as provided by chapter fifty-nine and other provisions of this chapter have been fully
50 abated or fully paid the security interest provided for under this section shall terminate, and if the
51 security interest was perfected, the collector or an assignee of the collector shall file a
52 termination statement at the office of the state secretary in accordance with the provisions of the
53 Uniform Commercial Code.

54 The collector may assign an underlying personal property tax receivable in
55 accordance with the procedures provided for in section 2C of this chapter provided that the
56 provisions of the Uniform Commercial Code governing the assignment of a security interest are
57 also followed. In the event of a direct conflict between section 2C of this chapter and the
58 provisions of the Uniform Commercial Code, the provisions of the Uniform Commercial Code
59 shall control as to the assignment of the security interest and the provisions of this chapter shall
60 control as to the assignment of the tax receivable.

61 If a tax receivable and security interest has not previously been assigned, the
62 collector shall assign the tax receivable and the security interest, in accordance with the
63 provisions of the Uniform Commercial Code, to any other secured party holding a concurrent
64 security interest in the same personal property, regardless of when the other secured party's
65 interest was perfected, if that secured party fully pays the balance due to the collector.

66 All remedies available to holders of secured interests under the provisions of
67 the Uniform Commercial Code for default of an underlying obligation shall be available to the
68 collector or to an assignee to collect the balance due and the use of the provisions of the Uniform
69 Commercial Code by the collector or an assignee shall not interfere with the ability of the
70 collector or an assignee to use other remedies, including the further accrual of interest on the tax
71 receivable, as provided in chapter fifty-nine, this chapter or any other applicable provision of law
72 to collect the balance due.

73 All terms used in this section shall be defined by reference to those terms as
74 they are used under the Uniform Commercial Code unless specific reference is made in this
75 section to another provision of law.

76 SECTION 3. Section 95 of Chapter 60 is hereby amended by inserting at the
77 end of the first sentence the words:-- "; and upon the filing of a financing statement in
78 accordance with the provisions of Section 37C and the provisions of the Uniform Commercial
79 Code, with the amount of uncollected personal property taxes represented by the financing
80 statement."

81 SECTION 4. This Act shall take effect on January 1, 2013.