

HOUSE No. 4662

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, June 27, 2018.

The committee on Revenue to whom was referred the petition (accompanied by bill, House, No. 4582) of Mike Connolly, Denise Provost and others (with the approval of the mayor and city council) that the city of Somerville be authorized to impose a real estate transfer fee on certain real estate transactions in said city, reports recommending that the accompanying bill (House, No. 4662) ought to pass [Local Approval Received] [Representative Garry of Dracut dissents].

For the committee,

JAY R. KAUFMAN.

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**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act authorizing the city of Somerville to impose a real estate transfer fee.

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. Except where otherwise exempted pursuant to this act, the City of
2 Somerville may impose a fee of up to 2 per cent of the purchase price upon the transfer of any
3 real property interest or the transfer of a controlling interest in a trust, limited liability company,
4 or other entity that directly or indirectly holds an interest, in any real property situated in the City
5 of Somerville, as follows: (A) a fee in the amount of 1 per cent of said purchase price shall be
6 due and payable by the seller; and (B) a fee in the amount of 1 per cent of said purchase price
7 shall be due and payable by the purchaser. In the case of a transfer of a controlling interest, the
8 City of Somerville may define by ordinance what constitutes a controlling interest and the
9 calculation of the fee. The City of Somerville is hereinafter referred to as the “City”.

10 (a) The following transfers of real property interests shall be exempt from the fee
11 established by this act: (i) transfers between family members as may be defined by ordinance;
12 (ii) transfers of convenience as may be defined by ordinance; and (iii) transfers to the
13 government of the United States or any other instrumentality, agency or subdivision thereof, or
14 the Commonwealth or any instrumentality or subdivision thereof.

15 (b) The seller of residential real property in the City shall be exempt from the fee
16 authorized in section 2, if the seller of such real property is:

17 (i) a vulnerable senior, as may be defined by ordinance; or

18 (ii) a taxpayer approved by the City for an exemption for residential real property
19 pursuant to section 5C of chapter 59 of the General Laws or any special law for the property to
20 be transferred (referred to as the “residential exemption”), or meets all qualifications for approval
21 of same, for the 2 immediately preceding years as of the date of the deed or other instrument
22 evidencing such transfer or such other date as may be defined by ordinance. This exemption shall
23 not apply to residential real property which contains 4 or more dwelling units.

24 If the seller of such real property is an heir-at-law or devisee, and the transfer of said real
25 property is within 1 year from the date of demise of the deceased owner of such real property and
26 such owner met the above residential exemption requirement, or would have met all
27 qualifications for approval of same, the seller shall be exempt from said fee.

28 If the seller is not exempt, the fee shall be due and payable by the seller to the City at the
29 time set forth in section 3.

30 (c) The purchaser shall be exempt from the fee authorized in section 2 if:

31 (i) that purchaser is a vulnerable senior, as may be defined by ordinance; or

32 (ii) prior to the recording of any deed, the purchaser of such real property submits an
33 affidavit of intent to the City to seek a residential exemption for that property, on a form
34 approved by the City, in which case the purchaser shall be provisionally exempt from the fee in
35 section 2, subject to this section. Such provisional exemption for such transaction shall be made

36 permanent, and the fee shall be permanently waived, if said purchaser is approved by the City for
37 a residential exemption with respect to such real property for the first 2 years following the date
38 of transfer in which the purchaser would first be eligible to apply for said residential exemption.
39 If the purchaser does not submit said affidavit, the fee shall be due and payable by the purchaser
40 to the City at the time set forth in section 3. If the purchaser does not obtain residential
41 exemptions during the first 2 years following the date of transfer, the fee shall be due and
42 payable by the purchaser upon a failure to obtain either required exemption. This exemption
43 shall not apply to residential real property which contains 4 or more dwelling units.

44 (d) The fee shall be paid to the City. The City is authorized to adopt an ordinance to
45 provide for the collection and liening of any outstanding transfer fee. The City shall have such
46 remedies to collect said amount as provided by law with respect to the collection of real property
47 taxes.

48 (e) The City shall deposit all fees received pursuant to this act into the Somerville
49 Affordable Housing Trust Fund established by the City.

50 SECTION 2. A copy of the deed or other instrument evidencing such transfer shall be
51 provided to the City and shall be accompanied by (a) an affidavit signed under oath or under the
52 pains and penalties of perjury by the purchaser and seller attesting to the purchase price; (b) the
53 applicable fee owed or, if applicable, an affidavit of intent to seek a residential exemption for
54 that property by the purchaser; and (c) the basis, if any, upon which the transfer, or 1 or both of
55 the parties to the transfer, is claimed to be exempt in whole or in part from said fee. Upon receipt
56 of the transfer fee or satisfactory evidence of exemption, the City or its designee shall promptly
57 thereafter issue a certificate indicating that the fee has been paid or that the purchaser or seller, or

58 the transfer, is exempt from the fee. The Middlesex South Register of Deeds shall not record or
59 register a deed unless the deed is accompanied by such certificate.

60 SECTION 3. The City may, by ordinance, adopt additional requirements, exemptions,
61 and regulations to implement or enforce said fee, consistent with this act. The City is not
62 authorized to eliminate or reduce any exemption set forth in this act.

63 SECTION 4. The Affordable Housing Trust Fund, as permitted by the ordinance
64 establishing said Affordable Housing Trust Fund and its governing documents, shall use revenue
65 from the fees raised pursuant to this act to fund affordable housing programs including, but not
66 limited to, limited equity arrangements, community land trusts, purpose-built housing, and other
67 programs to underwrite the affordability of properties with a preference, where permitted by
68 applicable law, for current and recent residents and employees of the City.

69 SECTION 5. The City shall prepare and issue an annual report that (a) identifies fee
70 receipts by payer category, including buyers and sellers; (b) quantifies affordable housing
71 programs funded, including type and purpose; and (c) evaluates the impact of said affordable
72 housing programs, including but not limited to, to the extent reasonably possible and permitted
73 by applicable law, the number and demographics of individuals and families served as well as
74 measures of housing stability and wealth generation in the community.

75 SECTION 6. This act shall take effect upon its passage.