

HOUSE No. 2423

The Commonwealth of Massachusetts

PRESENTED BY:

Mike Connolly and Denise Provost

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 adoption of the accompanying bill:

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

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>1/14/2019</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>1/14/2019</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	<i>1/29/2019</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>1/30/2019</i>

HOUSE No. 2423

By Representatives Connolly of Cambridge and Provost of Somerville, a petition (accompanied by bill, House, No. 2423) of Mike Connolly, Denise Provost and others (with the approval of the mayor and the board of aldermen) that the city of Somerville be authorized to impose a real estate transfer fee on certain real estate transactions in said city. Revenue. [Local Approval Received.]

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 4582 OF 2017-2018.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

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

9 controlling interest and the calculation of the fee. The City of Somerville is hereinafter referred
10 to as the “City”.

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

16 (b) Exempt Sellers; Fee Due by Non-Exempt Seller. The seller of residential real property
17 in the City shall be exempt from the fee authorized in Section 2, if the seller of such real property
18 is:

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

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

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

30 If the seller is not exempt, the fee shall be due and payable by the seller to the City at the
31 time set forth in Section 3.

32 (c) Exempt Purchasers; Fee Due by Non-Exempt Purchaser. The purchaser shall be
33 exempt from the fee authorized in Section 2 if:

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

35 (ii) prior to the recording of any deed, the purchaser of such real property submits an
36 affidavit of intent to the City to seek a residential exemption for that property, on a form
37 approved by the City, in which case the purchaser shall be provisionally exempt from the fee in
38 Section 2, subject to this section. Such provisional exemption for such transaction shall be made
39 permanent, and the fee shall be permanently waived, if said purchaser is approved by the City for
40 a residential exemption with respect to such real property for the first two years following the
41 date of transfer in which the purchaser would first be eligible to apply for said residential
42 exemption. If the purchaser does not submit said affidavit, the fee shall be due and payable by
43 the purchaser to the City at the time set forth in Section 3. If the purchaser does not obtain
44 residential exemptions during the first two years following the date of transfer, the fee shall be
45 due and payable by the purchaser upon a failure to obtain either required exemption. This
46 exemption shall not apply to residential real property which contains four or more dwelling units.

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

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

53 SECTION 3. A copy of the deed or other instrument evidencing such transfer shall be
54 provided to the City and shall be accompanied by, (a) an affidavit signed under oath or under the
55 pains and penalties of perjury by the purchaser and seller attesting to the purchase price, (b) the
56 applicable fee owed, (c) the basis, if any, upon which the transfer, or one or both of the parties to
57 the transfer, is claimed to be exempt in whole or in part from said fee, and (d) if applicable, an
58 affidavit of intent to seek a residential exemption for that property by the purchaser. Upon receipt
59 of such payment and/or satisfactory evidence of exemption, the City or its designee shall
60 promptly thereafter issue a certificate indicating that the fee has been paid or that the purchaser
61 or seller, or the transfer, is exempt from the fee. The Middlesex South Register of Deeds shall
62 not record or register a deed unless the deed is accompanied by such certificate.

63 SECTION 4. The City may, by ordinance, adopt additional requirements, exemptions,
64 and regulations to implement or enforce said fee, consistent with this act. The City is not
65 authorized to eliminate or reduce any exemption set forth in this act.

66 SECTION 5. The Affordable Housing Trust Fund, as permitted by the ordinance
67 establishing said Affordable Housing Trust Fund and its governing documents, shall use revenue
68 from the fees raised pursuant to this act to fund affordable housing programs including, but not
69 limited to, limited equity arrangements, community land trusts, purpose-built housing, and other
70 programs to underwrite the affordability of properties with a preference, where permitted by
71 applicable law, for current and recent Somerville residents and employees.

72 SECTION 6. The City shall prepare and issue an annual report that (i) identifies fee
73 receipts by payer category including buyers and sellers; (ii) quantifies affordable housing
74 programs funded, including type and purpose, and (iii) evaluates the impact of said affordable
75 housing programs, including but not limited to, to the extent reasonably possible and permitted
76 by applicable law, the number and demographics of individuals and families served as well as
77 measures of housing stability and wealth generation in the community.