

HOUSE No. 4514

The Commonwealth of Massachusetts

PRESENTED BY:

Kevin G. Honan

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 Boston to fund affordable housing through a fee on certain real estate transfers.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>	<i>2/4/2020</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>2/10/2020</i>
<i>Adrian C. Madaro</i>	<i>1st Suffolk</i>	<i>2/11/2020</i>
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>	<i>2/12/2020</i>

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By Mr. Honan of Boston, a petition (subject to Joint Rule 12) of Kevin G. Honan and others (with the approval of the mayor and city council) that the city of Boston be authorized to fund affordable housing through a fee on certain real estate transfers. Revenue. [Local Approval Received.]

The Commonwealth of Massachusetts

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

An Act authorizing the city of Boston to fund affordable housing through a fee on certain real estate transfers.

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. Findings and Purpose. The general court finds and declares that a serious
2 state of emergency exists in the city of Boston with respect to housing, whereby the inadequate
3 supply of affordable housing and the inadequate affordability of housing deemed affordable is
4 impacting quality of life and public health, contributing to housing insecurity, rent burden,
5 homelessness and increasing evictions, that rising housing costs and speculative real estate
6 practices disproportionately impact protected classes, including households of color, and further
7 finds that imposition of a fee on certain real estate transfers shall be applied, at the discretion of
8 the city and with exemptions as detailed in this act, in order to mitigate the impacts of
9 speculative market practices through the production of affordable and deeply affordable housing
10 and by discouraging rapid repeat sales of property.

11 SECTION 2. Transfer Fee. Except where otherwise exempted pursuant to this act, the
12 city of Boston may impose a fee of up to 2 per cent of the purchase price upon the transfer of any
13 real property interest or the transfer of a controlling interest in a trust, limited liability company,
14 or other entity that directly or indirectly holds an interest, in any real property situated in the city
15 of Boston, as follows: (A) a fee in the amount of one (1) percent of said purchase price shall be
16 due and payable by the seller; and (B) a fee in .the amount of 1 percent of said purchase price
17 shall be due and payable by the purchaser. In the case of a transfer of a controlling interest, the
18 city of Boston may define by ordinance what constitutes a controlling interest and the calculation
19 of the fee.

20 SECTION 3. Payment of Fees to City. Fees established via this act shall be paid to the
21 city of Boston; provided that, the city of Boston may, in lieu of collecting such fees, enter into an
22 agreement with the Suffolk county registry of deeds regarding the collection of such fees. The
23 city is authorized to adopt an ordinance to provide for the collection and liening of any
24 outstanding transfer fee. The city shall have such remedies to collect said amount as provided by
25 law with respect to the collection of real property taxes.

26 The city shall deposit all fees received pursuant to this act into the neighborhood housing
27 trust established by the city pursuant to chapter 665 of the acts of 1956, provided that, in order to
28 address a range of housing needs, the city may, in an ordinance accepting the provisions of this
29 act, reserve, and appropriate through the city's annual budgetary filings, all or a portion of fees
30 received pursuant to this act for programs designed to further housing acquisition, affordability,
31 creation, preservation, stability or related purposes and to address disparities in housing access
32 and opportunity.

33 SECTION 4. Affidavit and Deed. A copy of the deed or other instrument evidencing such
34 transfer shall be provided to the city and shall be accompanied by, (a) an affidavit signed under
35 oath or under the pains and penalties of perjury by the purchaser and seller attesting to the
36 purchase price, (b) the applicable fee owed, and (c) the basis, if any, upon which the transfer, or
37 one or both of the parties to the transfer, is claimed to be exempt in whole or in part from said fee
38 or fees. Upon receipt of such payment and/or satisfactory evidence of exemption, the city or its
39 designee shall promptly thereafter issue a certificate indicating that the fee has been paid or that
40 the purchaser or seller, or the transfer, is exempt from the fee. The Suffolk county register of
41 deeds shall not record or register a deed unless the deed is accompanied by such certificate.

42 SECTION 5. Exempt Transfers. The following transfers of real property interests shall be
43 exempt from the fee established by this act: (1) transfers between family members, as may be
44 defined by ordinance; (2) transfers of convenience, as may be defined by ordinance; (3) transfers
45 to the government of the United States or any other instrumentality, agency or subdivision
46 thereof, or the commonwealth or any instrumentality or subdivision thereof; or (4) transfers for
47 which the sale price is under \$2,000,000.

48 SECTION 6. Acceptance of Fee by Ordinance; Further Exemptions and Regulation. The
49 city may, by ordinance, accept and determine the amount of the fee, pursuant to the structure
50 detailed in section 2, and may adopt additional exemptions for economically vulnerable
51 populations, affordable housing developments, units of housing subject to deed restrictions,
52 homeowners or beneficiaries of a city-approved homebuyer program, or other parties. The city
53 may also specify requirements or conditions under which exemptions are granted and adopt
54 regulations to implement or enforce said fee, consistent with this act.

55 SECTION 7. Annual Report. The city shall prepare and issue an annual report that (i)
56 identifies fee receipts by payer category including buyers and sellers, location and unit type; and
57 (ii) quantifies affordable housing programs funded, including type and purpose.

58 SECTION 8. Severance Clause. The determination or declaration that any provision of
59 this act is beyond authority of the general court or is preempted by law or regulation shall not
60 affect the validity or enforceability of any other provisions.

61 SECTION 9. Effective Date. This act shall take effect upon signing.