HOUSE DOCKET, NO. 4632 FILED ON: 12/7/2021

HOUSE . . . . . No. 4295

The Commonwealth of Massachusetts

PRESENTED BY:

Sean Garballey and Cindy F. Friedman

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 establishing a real estate transfer fee upon the transfer of property in the town of Arlington.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Sean Garballey	*23rd Middlesex*	*12/7/2021*
Cindy F. Friedman	*Fourth Middlesex*	*12/7/2021*
David M. Rogers	*24th Middlesex*	*12/21/2021*

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By Representative Garballey of Arlington and Senator Friedman, a joint petition (accompanied by bill, House, No. 4295) of Sean Garballey and Cindy F. Friedman (by vote of the town) that the town of Arlington be authorized to establish a real estate transfer fee upon the transfer of property in said town. Revenue. [Local Approval Received.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act establishing a real estate transfer fee upon the transfer of property in the town of Arlington.

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. There is hereby imposed a real estate transfer fee, hereinafter "the fee," upon the transfer of any real property interest or the transfer of a controlling interest in a trust, limited liability company or other entity that directly or indirectly holds an interest in any real property situated in the town of Arlington according to the price thresholds, fee rates and other terms to be established pursuant to sections 2 and 3 by town meeting following a recommendation by the select board of the town of Arlington.

SECTION 2. The fee established pursuant to section 1 shall apply to any transfer exceeding a threshold price between 50 per cent to 150 per cent of the state median sale price of a single-family home. The threshold price shall be set by town meeting following a recommendation by the select board.

SECTION 3. The fee established pursuant to section 1 shall be between 0.05 per cent and 2 per cent of the transfer price, to be assessed upon the buyer or transferee, the seller or transferor or both parties to be determined by a vote of town meeting following a recommendation by the select board of the town of Arlington. The town of Arlington may define by by-law what constitutes a controlling interest and the calculation of the fee.

SECTION 4. The following transfers of real property interests shall be exempt from the fee established in section l:

(a) transfers for less than 50 per cent to 150 per cent of the state median sale price of a single-family home as determined by the department of housing and community development;

(b) transfers made as gifts with consideration less than $100 if the seller shall have been at the time of the transfer the spouse, domestic partner, lineal descendant or the lineal ancestor of the purchaser, by blood, marriage or adoption;

(c) transfers to the federal government, the commonwealth and any of their instrumentalities, agencies or subdivisions, including the town of Arlington and the Arlington housing authority;

(d) transfers of residential property that include 1 or more units subject to affordable housing restrictions, as defined in section 31 of chapter 184 of the General Laws; provided, however, that the fee imposed shall be proportionately reduced based on the percentage of residential units subject to affordable housing restrictions, as compared to the total number of residential units;

(e) transfers made without additional consideration to confirm, correct, modify or supplement a transfer previously made;

(f) transfers by operation of law without actual consideration, including, but not limited to, transfers occurring by virtue of death or bankruptcy of the owner of real property interest;

(g) transfers made in partition of land and improvements thereto, pursuant to chapter 241 of the General Laws;

(h) transfers to a charitable organization, as defined in clause Third of section 5 of chapter 59 of the General Laws, or a religious organization; provided, however, that the real property interests so transferred shall be held solely for affordable housing related uses that are consistent with the uses allowed by the Arlington affordable housing trust fund established pursuant to section 55C of chapter 44 of the General Laws;

(i) transfers for a mortgagee in foreclosure of the mortgage held by the mortgagee, and transfers of the property subject to a mortgage to the mortgagee in consideration of the forbearance of the mortgagee from closing such mortgage; and

(j) transfers consisting of the division of marital assets pursuant to section 34 of chapter 208 of the General Laws or other provisions of law.

SECTION 5. The town of Arlington shall not, by by-law or otherwise, eliminate or reduce any exemption set forth in section 4.

SECTION 6. The fee shall be paid to the town of Arlington and deposited into the Arlington affordable housing trust fund pursuant to said section 55C of said chapter 44, and appropriations therefrom shall be limited to financing affordable housing and reasonable

amounts for personnel and other costs. The town of Arlington shall have such remedies to collect the fee as provided by law with respect to the collection of real property taxes, including collection and imposing liens for any outstanding transfer fee.

SECTION 7. The town of Arlington may, by by-law, adopt additional requirements, exemptions, waivers and regulations to implement or enforce the fee, consistent with this act.

SECTION 8. The town of Arlington shall require a copy of the deed or other instrument evidencing such transfer and shall be accompanied by:

(a) an affidavit signed under oath or under the pains and penalties of perjury by the purchaser and seller attesting to the purchase price;

(b) the applicable fee owed or, if applicable, an affidavit of intent to seek one of the permissible exemptions, as described in section 4 for that property by the purchaser; and

(c) the basis, if any, upon which the transfer is claimed to be exempt in whole or in part from the fee.

SECTION 9. Upon receipt of the transfer fee or satisfactory evidence of exemption, the town of Arlington or its designee shall promptly thereafter issue a certificate indicating that the fee has been paid or that the transfer is exempt from the fee. The Middlesex South registry of deeds shall not record or register a deed unless the deed is accompanied by such certificate.

SECTION 10. The town of Arlington shall prepare and issue an annual report that:

(a) identifies fee receipts;

(b) quantifies affordable housing programs funded, including type and purpose; and

(c) evaluates the impact of the affordable housing programs, including, but not limited to, to the extent reasonably possible and permitted by applicable law, the number and demographics of individuals and families served as well as measures of housing stability and wealth generation in the community.

SECTION 11. Acceptance of this act by the town of Arlington shall be first by vote of approval at an annual town meeting, to be followed by an affirmative vote of a majority of the voters at any regular or special election at which the question of acceptance is placed on the ballot.

SECTION 12. Sections l to 10, inclusive, shall take effect 30 days after acceptance by the town of Arlington pursuant to section 11.