HOUSE DOCKET, NO. 4919 FILED ON: 3/14/2022

HOUSE . . . . . No. 4637

The Commonwealth of Massachusetts

PRESENTED BY:

Brandy Fluker Oakley

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 relative to real estate transfer fees and senior property tax relief.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Brandy Fluker Oakley	*12th Suffolk*	*3/14/2022*
Lydia Edwards	*First Suffolk and Middlesex*	*3/15/2022*
Liz Miranda	*5th Suffolk*	*3/16/2022*
Rob Consalvo	*14th Suffolk*	*3/21/2022*
Nika C. Elugardo	*15th Suffolk*	*6/16/2022*

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By Ms. Fluker Oakley of Boston, a petition (accompanied by bill, House, No. 4637) of Brandy Fluker Oakley and others (with the approval of the mayor and city council) relative to real estate transfer fees and senior property tax relief in the city of Boston. Revenue. [Local Approval Received.]

The Commonwealth of Massachusetts

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

An Act relative to real estate transfer fees and senior property tax relief.

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

Additionally, outdated income and asset restrictions for senior tax exemptions are restricting exemption relief, resulting in higher ownership costs and risking the displacement of a vulnerable population.

SECTION 2. Transfer Fee. Except where otherwise exempted pursuant to this act, the city of Boston may impose a fee of up to 2 percent of the purchase price upon the transfer of any real property interest in any real property in the city of Boston, 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 city of Boston. The fee shall be payable by the seller. In the case of a transfer of a controlling interest, the city of Boston may define by ordinance what constitutes a controlling interest and the calculation of the fee.

SECTION 3. Exempted Value. The first $2,000,000 of the purchase price of any 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 city of Boston shall be exempted from the transfer fee. The amount of the purchase price exempted from the transfer fee shall be evaluated every three (3) years, and may be adjusted by the City Council with the approval of the Mayor every three (3) years based on the percentage increase in the median citywide sales price for all properties, but shall not be reduced.

SECTION 4. Payment of Fees to City. Fees established pursuant to this act shall be paid to the city of Boston; provided that, the city of Boston may, in lieu of collecting such fees, enter into an agreement with the Suffolk county registry of deeds regarding the collection of such fees. The city is authorized to adopt an ordinance to provide for the collection and liening of any outstanding transfer fee. The city shall have such remedies to collect said amount as provided by law with respect to the collection of real property taxes.

The city shall deposit all fees received pursuant to this act into the neighborhood housing trust established by the city pursuant to chapter 665 of the acts of 1956, provided that, in order to

address a range of housing needs, the city may, in an ordinance accepting the provisions of this act, or in an ordinance amending that acceptance, reserve and appropriate through the city's annual budgetary filings, a portion of fees received pursuant to this act for programs designed to further housing acquisition, affordability, creation, preservation, senior homeowner stability, low-income renter stability, or related purposes and to address disparities in housing access and opportunity.

SECTION 5. Affidavit and Deed. A copy of the deed or other instrument evidencing each transfer subject to the transfer fee shall be provided to the city 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, and (c) the basis, if any, upon which the transfer, or one or both of the parties to the transfer, is claimed to be exempt in whole or in part from said fee or fees. Upon receipt of such payment and/or satisfactory evidence of exemption, the city or its designee shall promptly thereafter issue a certificate indicating that the fee has been paid or that the purchaser or seller, or the transfer, is exempt from the fee. The Suffolk county register of deeds shall not record or register a deed unless the deed is accompanied by such certificate.

SECTION 6. Exempt Transfers. The following transfers of real property interests shall be exempt from the fee established by this act: (1) transfers between family members, as may be defined by ordinance; (2) transfers of convenience, as may be defined by ordinance; or (3) transfers to the government of the United States or any other instrumentality, agency or subdivision thereof, or the commonwealth or any instrumentality or subdivision thereof.

SECTION 7. Acceptance of Fee by Ordinance; Further Exemptions and Regulation. The city may, by ordinance, accept and determine the amount of the fee and adjust the exempted value, pursuant to the structure detailed in sections 2 and 3, and may adopt additional exemptions for economically vulnerable populations, affordable housing developments, units of housing subject to deed restrictions, homeowners or beneficiaries of a city-approved homebuyer program, or other parties. The city may also specify requirements or conditions under which exemptions are granted and adopt regulations to implement or enforce said fee, consistent with this act.

SECTION 8. Annual Report. The city shall prepare and issue an annual report that (i) identifies fee receipts by payer category including buyers and sellers, location and unit type; and (ii) quantifies senior tax relief and affordable housing programs funded, including type and purpose.

SECTION 9. Senior Homeowner Property Tax Exemption. Notwithstanding clause 41C of section 5 of chapter 59 or any other general or special law to the contrary, with respect to real property in the City of Boston the following factors determining exemption for real property under clause 41C of section 5 of chapter 59 shall be adjusted as follows: (1) increasing the sum of $500 contained in the first sentence of clause 41C to $1500; (2) increasing the amounts contained in subclause (B) of said first sentence whenever they appear in said subclause from $13,000 dollars and from $15,000 dollars to fifty percent of Area Median Income as adjusted for household size, as is published annually by the U.S. Department of Housing and Urban Development, as required by Section 8 of the Federal Housing Act of 1937 (42 USC Section 1437f), as amended, and the relevant year of the calculation shall be the most recent figure available as of July 1 of the start of the fiscal year to which the exemption is sought; and (3) increasing the amounts contained in subclause (C) of said first sentence whenever they appear in

said subclause from $28,000 dollars to not more than $80,000 and from $30,000 to not more than $110,000. These adjustments shall not be further modified by the second sentence of clause 41C of section 5 of chapter 59.

SECTION 10. Severance Clause. The determination or declaration that any provision of this act is beyond the authority of the general court or is preempted by law or regulation shall not affect the validity or enforceability of any other provisions.

SECTION 11. Effective Date. This act shall take effect immediately upon signing by the Governor.