

HOUSE No. 3665

The Commonwealth of Massachusetts

PRESENTED BY:

Sarah K. Peake

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 town of Wellfleet to establish a real estate transfer fee.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>	<i>1/18/2023</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>	<i>6/21/2023</i>

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By Representative Peake of Provincetown, a petition (accompanied by bill, House, No. 3665) of Sarah K. Peake (by vote of the town) that the town of Wellfleet be authorized to establish a real estate transfer fee in said town. Revenue. [Local Approval Received.]

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 4648 OF 2021-2022.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act authorizing the town of Wellfleet to establish 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. For purposes of this act, the words and phrases set forth in this section shall
2 have the following meanings:

3 "Purchaser", shall refer to the transferee, grantee or recipient of any real property interest.

4 "Purchase price", all consideration paid or transferred by or on behalf of a purchaser to a
5 seller or his nominee, or for his benefit, for the transfer of any real property interest, and shall
6 include, but not be limited to, all cash or its equivalent so paid or transferred; all cash or other
7 property paid or transferred by or on behalf of the purchaser to discharge or reduce any
8 obligation of the seller; the principal amount of all notes or their equivalent, or other deferred
9 payments, given or promised to be given by or on behalf of the purchaser to the seller or his

10 nominee; the outstanding balance of all obligations of the seller which are assumed by the
11 purchaser or to which the real property interest transferred remains subject after the transfer,
12 determined at the time of transfer, but excluding real estate taxes and other municipal liens or
13 assessments which are not overdue at the time of transfer; the fair market value, at the time of
14 transfer, of any other consideration or thing of value paid or transferred by or on behalf of the
15 purchaser, including, but not limited to, any property, goods or services paid, transferred or
16 rendered in exchange for such real property interest.

17 "Real property interest", shall refer to any present or future legal or equitable interest in
18 or to real property, and any beneficial interest therein, including the interest of any beneficiary in
19 a trust which holds any legal or equitable interest in real property, the interest of a partner or
20 member in a partnership or limited liability company, the interest of a stockholder in a
21 corporation, the interest of a holder of an option to purchase real property, the interest of a buyer
22 or seller under a contract for purchase and sale of real property, and the transferable development
23 rights created under chapter 183A of the General Laws; but shall not include any interest which
24 is limited to any of the following: the dominant estate in any easement or right of way; the right
25 to enforce any restriction; any estate at will or at sufferance; any estate for years having a term of
26 less than 30 years; any reversionary right, condition, or right of entry for condition broken; and
27 the interest of a mortgagee or other secured party in any mortgage or security agreement.

28 "Seller", shall refer to the transferor, grantor or immediate former owner of any real
29 property interest.

30 "Seasonal" shall be defined as a period commencing April 1 of each calendar year and
31 termination November 30 of the same calendar year.

32 "Time of transfer" of any real property interest shall mean the time at which such transfer
33 is legally effective as between the parties thereto, and, in any event, with respect to a transfer
34 evidenced by an instrument recorded with the appropriate registry of deeds or filed with the
35 assistant recorder of the appropriate registry district, not later than the time of such recording or
36 filing.

37 "Town" shall refer to the Town of Wellfleet acting by and through its Selectboard.

38 SECTION 2. There is hereby imposed a Real Estate Transfer Fee equal to

39 1. a fee in the amount of one (1) percent of said purchase price shall be due and payable
40 by the seller; and (B) a fee in the amount of one (1) percent of said purchase price shall be due
41 and payable by the purchaser upon the transfer of any real property interest in any real property
42 situated in the Town of Wellfleet. Said fee shall be the liability of the buyer and seller of such
43 property interest, and any agreement between the purchaser and the seller or any other person
44 with reference to the allocation of the responsibility for bearing said fee shall not affect such
45 liability of the purchaser. The fee shall be paid to the Town of Wellfleet. The first \$50,000
46 collected in each fiscal year shall be deposited in the Town's Capital Improvement Stabilization
47 Fund. The remaining funds collected each fiscal year shall be deposited into the Wellfleet
48 Affordable Housing Trust.

49 SECTION 3. The following transfers of real property interests shall be exempt from the
50 Real Estate Transfer Fee:

51 A. First time homebuyers who live in the home for at least 5 years. A lien shall
52 accompany the deed stating that "There is running with the land a lien equal to the amount of fee

53 exempted, plus accumulated interest and penalties until such time as all conditions of this sub-
54 section are met.”

55 C. Transfers to the Government of the U.S., The Commonwealth, the Town of Wellfleet
56 and any of their instrumentalities, agencies or sub-divisions, such as the Wellfleet Housing
57 Authority and The Wellfleet Housing Trust.

58 D. Transfers made without additional consideration to confirm, correct, modify or
59 supplement a transfer previously made.

60 E. Transfers of convenience with consideration under \$100.00 which include: name
61 change, into trusts, out of trust, etc.

62 F. Transfers to any charitable organization as defined in Clause Third of Section Five of
63 Chapter 59 of the General Laws or any religious organization providing that the real property
64 interests so transferred will be held solely for public charitable or religious purposes.

65 G. Transfers between immediate family members, marriage partners, parents and
66 children, grandchildren, step-parents and step-children, brothers and sisters, or beneficiaries of
67 an estate.

68 H. 120% of the previous fiscal year’s median single family home assessed value as
69 assessed by the Wellfleet Town Assessor. This exemption shall not apply to properties
70 occupiable on a seasonal basis only. This exemption shall not apply to properties with a sale
71 price above \$2,000,000.

72 SECTION 4.

73 A. The fee imposed shall be due at the time of the transfer of the real property interest.

74 B. The buyer shall pay interest on any unpaid amount of the fee at the rate the Town
75 collects on unpaid Real Estate Taxes.

76 C. The Town shall notify a buyer by Registered or Certified Mail of any failure to
77 discharge the amount in full of fee due.

78 D. The fee shall be paid to the Wellfleet, or its designee, and shall be accompanied by a
79 copy of the deed or other instrument evidencing such transfer, if any, and an affidavit signed
80 under oath or under the pains and penalties of perjury by the purchaser or his legal representative
81 and the seller or his legal representative, attesting to the true and complete purchase price and the
82 basis, if any, upon which the transfer is claimed to be exempt in whole or in part from the fee
83 imposed hereby. The Town, or its designee, shall promptly thereafter execute and issue a
84 certificate indicating that the appropriate fee has been paid or that the transfer is exempt from the
85 fee, stating the basis for the exemption. The register of deeds for Barnstable County, and the
86 assistant recorder for the registry district of Barnstable County, shall neither record nor register,
87 or receive or accept for recording or registration, any deed, except a mortgage deed, to which has
88 not been affixed such a certificate executed by the Town or its designee. The Town is authorized
89 to provide for the collection and securing a lien of any outstanding transfer fee. The Town shall
90 have such remedies to collect said amount as provided by law with respect to the collection of
91 real property taxes. Failure to comply with this requirement shall not affect the validity of any
92 instrument.

93 SECTION 5. Annual Report. The Town shall prepare and issue an annual report that (i)
94 identifies fee receipts by payer category and unit type; and (ii) quantifies housing programs
95 funded, including type and purpose.

96 SECTION 6. Severance Clause. The determination or declaration that any provision of
97 this act is beyond authority of the general court or is preempted by law or regulation shall not
98 affect the validity or enforceability of any other provisions.

99 SECTION 7. This act shall take effect on passage.