

HOUSE No. 3734

The Commonwealth of Massachusetts

PRESENTED BY:

Mindy Domb and Joanne M. Comerford

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 city known as the town of Amherst.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Mindy Domb</i>	<i>3rd Hampshire</i>	<i>2/16/2023</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>8/23/2023</i>

HOUSE No. 3734

By Representative Domb of Amherst and Senator Comerford, a joint petition (accompanied by bill, House, No. 3734) of Mindy Domb and Joanne M. Comerford (by vote of the town) that the city known as the town of Amherst be authorized to establish a real estate transfer fee in said town. Revenue. [Local Approval Received.]

The Commonwealth of Massachusetts

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

An Act establishing a real estate transfer fee upon the transfer of property in the city known as the town of Amherst.

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. Except where otherwise exempted pursuant to this act, the city known as
2 the town of Amherst may, by bylaw, impose a fee of up to 2 per cent of the purchase price upon
3 the transfer of: (i) any real property interest in the city known as the town of Amherst; or (ii) a
4 controlling interest in a trust, limited liability company or other entity that directly or indirectly
5 holds an interest in any class of residential real property situated in the city known as the town of
6 Amherst. The city known as the town of Amherst may define by bylaw what constitutes a
7 controlling interest and the calculation of the fee.

8 SECTION 2. The following transfers of real property interests shall be exempt from the
9 fee established in section 1: (i) transfers to or from the federal government, the commonwealth,
10 the city known as the town of Amherst and any of their instrumentalities, agencies or
11 subdivisions, including the Amherst housing authority; (ii) transfers of real property subject to an

12 affordable housing restriction; (iii) transfers made without additional consideration to confirm,
13 correct, modify or supplement a transfer previously made; (iv) transfers with consideration under
14 \$100; and (v) transfers between family members, as may be defined by bylaw.

15 Except as otherwise provided, the purchaser shall have the burden of proof that any
16 transfer is exempt under this section. Any otherwise exempt transfer shall not be exempt in the
17 event that such transfer, whether by itself or as part of a series of transfers, was made for the
18 primary purpose of evading the fee imposed by section 1.

19 The town shall not, by bylaw or otherwise, eliminate or reduce any exemption set forth in
20 this act.

21 SECTION 3. The fee shall be paid to the city known as the town of Amherst. The town
22 shall deposit all fees received hereunder with the town treasurer/collector. The treasurer/collector
23 shall deposit the first \$250,000 collected in each fiscal year in the Amherst Municipal Affordable
24 Housing Trust Fund, established pursuant to section 55C of chapter 44 of the General Laws. The
25 remaining funds collected each fiscal year shall be deposited in the town's capital stabilization
26 fund, the town's general fund, and/or the Amherst Municipal Affordable Housing Trust Fund,
27 as determined by bylaw.

28 SECTION 4. The city known as the town of Amherst shall have such remedies to collect
29 the fee as provided by law with respect to the collection of real property taxes. The town may, by
30 by-law, adopt additional requirements, exemptions and regulations to implement or enforce said
31 fee, consistent with this act.

32 SECTION 5. A copy of the deed or other instrument evidencing such transfer shall be
33 provided to the city known as the town of Amherst and shall be accompanied by: (i) an affidavit

34 signed under oath or under the pains and penalties of perjury by the purchaser and seller attesting
35 to the purchase price; (ii) the applicable fee owed or, if applicable, an affidavit of intent to seek
36 one of the permissible exemptions, as described in section 2, for that property by the purchaser;
37 and (iii) the basis, if any, upon which the transfer is claimed to be exempt in whole or in part
38 from said fee. Upon receipt of the transfer fee or satisfactory evidence of exemption, the town or
39 its designee shall promptly thereafter issue a certificate indicating that the fee has been paid or
40 that the transfer is exempt from the fee. The Hampshire district registry of deeds shall not record
41 or register a deed unless the deed is accompanied by such certificate.

42 SECTION 6. This act shall take effect upon its passage.