

HOUSE No. 2730

The Commonwealth of Massachusetts

PRESENTED BY:

Simon Cataldo and Carmine Lawrence Gentile

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 Concord.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Simon Cataldo</i>	<i>14th Middlesex</i>	<i>1/20/2023</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>1/20/2023</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>1/27/2023</i>

HOUSE No. 2730

By Representatives Cataldo of Concord and Gentile of Sudbury, a petition (accompanied by bill, House, No. 2730) of Simon Cataldo, Carmine Lawrence Gentile and Michael J. Barrett (by vote of the town) that the town of Concord 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-Third General Court
(2023-2024)

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

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, hereafter “the fee,” equal to 1 percent of the portion of the purchase price exceeding \$1,000,000 upon the transfer of (i) any real property interest in any residential property situated in the Town of Concord, or (ii) a controlling interest in a trust, limited liability company, or other entity that directly or indirectly holds an interest in any class of residential real property situated in the Town of Concord. The fee shall be the liability of the purchaser of such property interest, and any agreement between the purchaser and the seller or any other person with reference to the allocation of the liability for the fee shall not affect such liability of the purchaser to the Town. The Town may define by bylaw what constitutes a controlling interest and the calculation of the fee.

SECTION 2. The following transfers of real property interests shall be exempt from the fee established in Section 1:

(i) transfers to the federal government, the Commonwealth, the Town, and any of their instrumentalities, agencies or subdivisions, including the Concord Housing Authority and the Concord Municipal Affordable Housing Trust;

(ii) transfers to the Concord Housing Development Corporation;

(iii) transfers of real property subject to an affordable housing restriction;

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

(v) transfers with consideration under \$100.00;

(vi) 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 will be held solely for public charitable or religious purposes; and

(vii) transfers between family members, including spouses, parents and children, grandparents and grandchildren, step-parents and step-children, siblings or step-siblings.

SECTION 3. The fee shall be paid to the Town of Concord. The Town shall have such remedies to collect the fee as provided by law with respect to the collection of real property taxes. The Town may, by bylaw, adopt additional requirements, exemptions, and regulations to implement or enforce said fee, consistent with this act. The Town may not, by bylaw or otherwise, eliminate or reduce any exemption set forth in this act.

SECTION 4. All fees received pursuant to this act shall be deposited in the Concord Municipal Affordable Housing Trust Fund established pursuant to section 55C of chapter 44 of the General Laws and used for any purposes permitted thereunder.

SECTION 5. For the purposes of this act, “affordable housing” shall mean housing with an affordable housing restriction recorded with the Middlesex South Registrar of Deeds that requires the housing to be rented or owned by families and individuals whose income at initial occupancy is no more than 150 percent of the area mean income as determined by the federal department of housing and urban development guidelines and adjusted for family size and that thereafter such units shall be rented or sold, subject to such restrictions on appreciation as determined by the municipality to be reasonably and necessary to maintain long term affordability, to families or individuals at incomes of no more than 150 percent of the area mean income.

SECTION 6. A copy of the deed or other instrument evidencing such transfer shall be provided to the Town and shall be accompanied by (i) an affidavit signed under oath or under the pains and penalties of perjury by the purchaser and seller attesting to the purchase price; (ii) the applicable fee owed or, if applicable, an affidavit of intent to seek one of the permissible exemptions, as described in Section 2, for that property by the purchaser; and (iii) the basis, if any, upon which the transfer is claimed to be exempt in whole or in part from said fee. Upon receipt of the transfer fee or satisfactory evidence of exemption, the Town 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 Registrar of Deeds shall not record or register a deed unless the deed is accompanied by such certificate.

53 SECTION 7. The Town shall prepare and issue an annual report to that (i) identifies fee
54 receipts; (ii) quantifies affordable housing programs funded, including type and purpose; and (iii)
55 evaluates the impact of said affordable housing programs, including but not limited to, to the
56 extent reasonably possible and permitted by applicable law, the number and demographics of
57 individuals and families served as well as measures of housing stability and wealth generation in
58 the community.

59 SECTION 8. Acceptance of this act by the Town of Concord shall be first by vote of
60 approval at an annual or special Town Meeting. Sections 1 to 7, inclusive shall take effect 30
61 days after such acceptance by the Town.