

SENATE No. 1434

The Commonwealth of Massachusetts

PRESENTED BY:

Julian Cyr

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 funding affordable housing and incentivizing zoning reform.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Julian Cyr</i>	<i>Cape and Islands</i>	
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>8/6/2025</i>

SENATE No. 1434

By Mr. Cyr, a petition (accompanied by bill, Senate, No. 1434) of Julian Cyr for legislation to fund affordable housing and incentivize zoning reform by imposing a fee upon the transfer of real property interest in any real property situated within the city or town. Municipalities and Regional Government.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act relative to funding affordable housing and incentivizing zoning reform.

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. Section 55C of chapter 44, as appearing in the 2022 Official Edition, is
2 hereby further amended, by inserting after the word “fee,” in line 99, the following words:-
3 transfer fee pursuant to section 55D.

4 SECTION 2. Said chapter 44 is hereby further amended by inserting after section 55C the
5 following section:-

6 Section 55D. (a) For purposes of this section, the following words shall, unless the
7 context clearly requires otherwise, have the following meanings:-

8 “Affidavit of transfer fee”, an affidavit signed under the pains and penalties of perjury by
9 the settlement agent that attests to (i) the true and complete purchase or sale price of the transfer
10 of the real property interest; (ii) the amount of the transfer fee owed or the basis, if any, upon
11 which the transfer is exempt from the fee imposed by said transfer; (iii) the amount that the seller

12 shall pay as required by the bylaw, ordinance or regulation; and (iv) the obligation of the
13 settlement agent to make payment of the transfer fee to the city or town.

14 “Affordable housing purposes” uses allowed by the municipal affordable housing trust
15 fund, regional affordable housing commission fund or year-round housing trust fund into which
16 funds are deposited hereunder, which shall include the acquisition, construction, rehabilitation,
17 and preservation of (1) affordable or attainable housing for the benefit of low- and moderate-
18 income households and (2) year-round housing in municipalities designated as seasonal
19 communities. All activities shall be subject to the income limits as are applicable to such
20 municipal affordable housing trust fund, regional affordable housing commission fund,
21 assistance to a housing authority as defined under section 1 of chapter 121B, year-round housing
22 trust fund or other affordable housing purposes pursuant to regulations promulgated by the
23 executive office of housing and livable communities.

24 “Affordable housing restriction”, a recorded instrument held by a qualified holder which
25 encumbers or restricts a real property interest so that the real property interest is perpetually or
26 for a term of at least 30 years limited to use as a residence occupied by a low or moderate income
27 household with area median income, as defined by the United States Department of Housing and
28 Urban Development, not to exceed the household income limits applicable to the municipal
29 affordable housing trust fund or regional affordable housing commission fund that funded the
30 acquisition of the affordable housing restriction.

31 “Attainable housing”, as defined by the executive office of housing and livable
32 communities.

33 "Low or moderate income household", a household with gross income at or less than 150
34 per cent of area median income as most recently determined by the United States Department of
35 Housing and Urban Development, adjusted for household size.

36 "Member cities and towns", cities or towns that are members of a regional affordable
37 housing commission.

38 "Multi-family housing", a building with 3 or more residential dwelling units or 2 or more
39 buildings on the same lot with more than 1 residential dwelling unit in each building.

40 "Municipal affordable housing trust fund", a municipal affordable housing trust fund
41 established under section 55C, or any other municipal trust fund established pursuant to a law of
42 the commonwealth providing for the creation and preservation of affordable housing in a
43 particular city or town for the benefit of low- and moderate-income households or for the
44 funding of community housing, as defined in and in accordance with chapter 44B.

45 "Purchaser", the transferee, grantee, or recipient of any real property interest.

46 "Purchase price" or "sale price," all consideration paid or transferred by or on behalf of a
47 purchaser to a seller or the seller's nominee, or for the seller's benefit, for the transfer of any real
48 property interest, and shall include, but not be limited to: (i) all cash or its equivalent so paid or
49 transferred; (ii) all cash or other property paid or transferred by or on behalf of the purchaser to
50 discharge or reduce any obligation of the seller; (iii) the principal amount of all notes or their
51 equivalent, or other deferred payments, given or promised to be given by or on behalf of the
52 purchaser to the seller or the seller's nominee; (iv) the outstanding balance of all obligations of
53 the seller which are assumed by the purchaser or to which the real property interest transferred
54 remains subject after the transfer, determined at the time of transfer, but excluding real estate

55 taxes and other municipal liens or assessments which are not overdue at the time of transfer; (v)
56 the fair market value, at the time of transfer, of any other consideration or thing of value paid or
57 transferred by or on behalf of the purchaser, including, but not limited to, any property, goods or
58 services paid, transferred or rendered in exchange for such real property interest.

59 “Qualified holder”, a governmental body or charitable corporation or trust which
60 qualifies under the terms of chapter 184 to hold an affordable housing restriction.

61 "Real property interest", any present or future legal or equitable interest in or to real
62 property, and any beneficial interest therein, including the interest of any beneficiary in a trust
63 which holds any legal or equitable interest in real property, the interest of a partner or member in
64 a partnership or limited liability company, the interest of a stockholder in a corporation, the
65 interest of a holder of an option to purchase real property, the interest of a purchaser or seller
66 under a contract for purchase and sale of real property, and the transferable development rights
67 created under chapter 183A; but shall not include any interest which is limited to any of the
68 following: the dominant estate in any easement or right of way; the right to enforce any
69 restriction; any estate at will or at sufferance; any estate for years having a term of less than 30
70 years; any reversionary right, condition, or right of entry for condition broken; and the interest of
71 a mortgagee or other secured party in any mortgage or security agreement.

72 “Regional affordable housing commission”, a regional trust, bank, board or like entity,
73 whose membership includes two or more municipalities.

74 “Regional affordable housing commission fund”, a fund established by the regional
75 affordable housing commission for the creation and preservation of affordable or attainable
76 housing.

77 "Seller", the transferor, grantor, or immediate former owner of any real property interest.

78 "Settlement Agent", an escrow agent, real estate attorney, or representative of a lender or
79 title company that conducts the closing or settlement of the sale or transfer of a real property
80 interest including the coordination of the attendance and document signing for all the parties,
81 verification that each party to the transfer has performed their required responsibilities as
82 outlined in the contract and the disbursement of all funds, along with the title and deed, to the
83 appropriate parties after checking that all conditions are met at the close of the transfer
84 transaction.

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

89 "Transfer fee", a fee, to be paid by the party designated by the city or town pursuant to
90 this section, upon the transfer of a real property interest between a seller and a purchaser.

91 "Year-round housing", housing for occupancy by persons or families who occupy either
92 rental or other housing as their principal residence for not less than 10 months a year.

93 "Year-Round Housing Trust Fund", a fund established under section 32 of chapter 23B to
94 provide for the creation and preservation of affordable and attainable housing in seasonal
95 communities for the benefit of year-round residents and for the funding of programs available to
96 seasonal communities.

97 (b) (1) A city or town that has established a municipal affordable housing trust fund, year-
98 round housing trust fund or a regional affordable housing commission fund may, pursuant to
99 subsection (e), impose a fee upon the transfer of real property interest in any real property
100 situated within the city or town, or real property situated in the member cities and towns,
101 provided that 10 per cent of all funds collected by the fee established under this section shall be
102 subject to appropriation and shall be used for affordable and attainable housing related expenses
103 by the executive office of housing and livable communities for the purposes of supportive
104 housing and housing production in gateway municipalities as defined at section 1 of Chapter 40V
105 and rural communities as defined at section 66 of Chapter 23A and further provided that the city
106 or town satisfies at least 4 of the following criteria:

107 (i) For a city or town that is an MBTA community as defined in section 1A of chapter
108 40A, that the city or town has been determined by the executive office of housing and livable
109 communities to be in compliance with section 3A of chapter 40A.

110 (ii) The city or town or members cities or towns have imposed the maximum property tax
111 surcharge under section 3 of chapter 44B of which an average of at least 40 percent of funds
112 received through said surcharge have been appropriated for housing creation and housing
113 preservation in the 2-year period immediately prior to enacting a transfer fee.

114 (iii) The city or town has imposed a local excise tax established under section 3A of
115 chapter 64G.

116 (iv) The city or town has appropriated at least 50 per cent of all community impact fee
117 receipts collected under section 3D of chapter 64G to wastewater, housing, or municipal

118 infrastructure projects that advance affordable, attainable or year-round housing development in
119 the two years prior to the enactment of the transfer fee.

120 (v) A city or town with a population of at least 1,500 residents has adopted a zoning
121 ordinance or by-law that allows for multi-family housing in at least 5 per cent of residentially
122 zoned areas within the boundaries of the city or town.

123 (vi) A city or town has adopted a zoning ordinance or by-law that permits parcels of less
124 0.5 acre in at least 50 per cent of residentially zoned areas within the boundaries of the city or
125 town.

126 (vii) The city or town has implemented a zoning ordinance or bylaw adopting a smart
127 growth zoning district established under section 3 of chapter 40R;

128 (viii) The city or town has developed and implemented a housing production plan as
129 defined under section 2 of chapter 40R.

130 The city of town may determine whether the fee shall be borne by the purchaser or the
131 seller of property subject to the fee established under this section.

132 (2) A city, town or regional affordable housing commission or its designee, as applicable,
133 may establish different transfer fee rates for different classifications of properties, defined by the
134 tax classification of such properties, and the purchase price of a property; provided, however,
135 that any transfer fee shall be not less than 0.5 per cent and not more than 2 per cent of the portion
136 of the purchase price of such real property interest in excess of the exemption threshold
137 established pursuant to paragraph (1) of subsection (c).

138 (3) The party bearing the fee established under this section or settlement agent shall, in
139 advance of the time of transfer, request and the city or town or regional affordable housing
140 commission, as applicable, shall provide to said party or settlement agent in advance of the time
141 of transfer a certificate indicating the dollar amount of the transfer fee owed based on the agreed
142 upon purchase price as evidenced by an executed purchase and sale agreement, contract for sale
143 or other document evidencing the agreed upon purchase price or that the transfer is exempt from
144 the transfer fee, stating the basis for the exemption.

145 (4) Whenever the transfer of a real property interest will occur at or about the same time
146 as a conveyance of personalty related thereto, the calculation of the fee with respect to such
147 transfer shall be determined by the city or town or regional affordable housing commission or its
148 designee, as applicable; provided, that the allocations of payments between real estate and
149 personalty agreed to by the purchaser and seller shall not determine the calculation of the transfer
150 fee due pursuant to this section.

151 (5) The transfer fee shall be paid within 7 days of the time of transfer by the settlement
152 agent to the city or town, or its designee, or to the regional affordable housing commission or its
153 designee, as applicable and shall be accompanied by a copy of the deed or other instrument
154 recorded or registered with the registry of deeds for the county in which the real property interest
155 is located, or the assistant recorder for the registry district of the county in which the real
156 property interest is located, and a copy of the affidavit of transfer fee. The city or town, or its
157 designee, or the regional affordable housing commission, or its designee as applicable, shall
158 promptly thereafter execute and issue a certificate indicating that the appropriate fee has been
159 paid.

160 (6) Upon receipt of a transfer fee by a city or town, the treasurer of the city or town shall
161 deposit the transfer fee in the city or town's municipal affordable housing trust fund or year-
162 round housing trust fund. Upon receipt of a transfer fee by a regional affordable housing
163 commission, or its designee, the regional affordable housing commission, or its designee, shall
164 deposit the transfer fee into the regional affordable housing commission fund.

165 (c) (1) A city or town, in adopting the fee established under this section, shall exempt the
166 following transfers of real property interests from said fee:

167 (i) Transfers for less than \$2,000,000; provided, however, that a municipality or regional
168 affordable housing commission, as applicable, may adopt a higher threshold pursuant to this
169 section.

170 (ii) Transfers from the government of the United States, the Commonwealth and any of
171 their instrumentalities, agencies, or subdivisions, including but not limited to transfers from the
172 city, town, local housing authority or regional housing commission;

173 (iii) Transfers between family members as defined by bylaw, ordinance or regulations
174 adopted by a city, town or regional affordable housing commission, as the case may be;

175 (iv) Transfers consisting of the division of marital assets under the provisions of section
176 34 of chapter 208 or other provisions of law;

177 (v) transfers of property in which the party bearing the fee established under this section
178 is a beneficiary of a city-approved homebuyer program.

179 (vi) Transfers of an interest in real property containing not less than 3 residential units in
180 which not less than 1 residential unit or 25 per cent of the residential units, whichever is greater,

181 is governed by affordable housing restrictions; provided, however, that if less than 100 per cent
182 of the residential units are governed by affordable housing restrictions, the exemption shall apply
183 only to the portion of the property that is governed by affordable housing restrictions and the
184 transfer fee imposed pursuant to this section shall be proportionately reduced based on the
185 percentage of residential units subject to affordable housing restrictions, as compared to the total
186 number of units located on that property;

187 (2) A city or town, in adopting the fee established under this section, may exempt the
188 following transfers of real property interests from said fee:

189 (i) Transfers made as gifts with consideration of less than \$100;

190 (ii) Distributions by the trustees of a trust to the beneficiaries of such trust;

191 (iii) Transfers to the trustees of a trust in exchange for a beneficial interest received by
192 the seller in such trust;

193 (iv) Transfers which, without additional consideration, confirm, correct, modify, or
194 supplement a transfer previously made;

195 (v) Transfers by operation of law without actual consideration, including but not limited
196 to transfers occurring by virtue of the death or bankruptcy of the owner of a real property
197 interest;

198 (vi) Transfers made in partition of land and improvements thereto, pursuant to chapter
199 241;

200 (vii) Transfers to any charitable or religious organization, as defined pursuant to section 5
201 of chapter 59; provided, however, that the real property interest so transferred will be held by the

202 charitable or religious organization solely for affordable housing-related uses that are consistent
203 with the uses allowed by the municipal affordable housing trust fund, year-round housing trust
204 fund or regional affordable housing commission fund, as applicable; and provided, further, that
205 such housing shall be subject to an affirmative fair housing marketing plan approved by the
206 executive office of housing and livable communities;

207 (viii) Transfers to a mortgagee in foreclosure of the mortgage held by such mortgagee,
208 and transfers of the property subject to a mortgage to the mortgagee in consideration of the
209 forbearance of the mortgagee from foreclosing said mortgage;

210 (ix) a vulnerable senior, as may be defined by ordinance;

211 (x) transfers of property subject to a year-round or other deed restriction;

212 (xi) transfers of property in which the purchaser is a first-time homebuyer who lives in
213 the home for a specified number years, provided that such exemption is available in cities and
214 towns in which the fee established under this section is borne by the purchaser; and

215 (3) The city or town may, by ordinance, accept and determine the amount of the fee and
216 adjust the exempted value to assess the entire value of the transaction.

217 (4) The payor of the transfer fee shall have the burden of proving that an exemption
218 applies to a transfer of real property interest pursuant to this section; and provided further, that
219 any otherwise exempt transfer shall not be exempt in the event that such transfer, by itself or as
220 part of a series of transfers, was made for the primary purpose of evading the fee established
221 pursuant to this section.

222 (d) The city or town’s treasurer, or the treasurer or other person designated by the
223 regional affordable housing commission, as applicable, shall keep a full and accurate account
224 stating when, from or to whom, and on what account, money has been paid or received relative
225 to the activities of the municipal or regional affordable housing trust fund.

226 (e)(1) The adoption of any transfer fee pursuant to subsection (b) shall be determined by
227 majority vote by the city or town’s legislative body. The adoption of a transfer fee pursuant to
228 subsection (b) shall take effect on the first day of the calendar quarter following 30 days after its
229 acceptance pursuant to this subsection or on the first day of a later calendar quarter as the city or
230 town or regional housing commission, as applicable, may designate.

231 (2) A city, town or any of the member cities or towns of a regional affordable housing
232 commission may provide for the enforcement and collection of a transfer fee established
233 pursuant to this section, including, but not limited to the denial, revocation or suspension of local
234 licenses and permits pursuant to section 57 of chapter 40 and the authority to impose a lien on
235 real property pursuant to section 58 of chapter 40.

236 (3) A city, town or regional affordable housing commission enacting a real estate transfer
237 fee pursuant to this section, may issue rules, policies and procedures to effectuate its terms.

238 (4) A city, town or regional affordable housing commission that adopts this section shall
239 submit an annual report to the executive office of housing and livable communities and the
240 department of revenue detailing the total fees collected and the amounts used or planned to be
241 used for affordable housing purposes in accordance with this section.

242 (5) a city, town or regional affordable housing commission that adopts this section shall
243 adopt a bylaw, ordinance or regulation, as the case may be, which establishes a procedure by

244 which an aggrieved person may appeal the transfer fee amount, in whole or in part, or the denial
245 of an exemption.

246 (6) Any person aggrieved by a denial of relief pursuant to a bylaw, ordinance or
247 regulation established pursuant to paragraph (5) may, within 60 days from the receipt of the
248 notice of such denial, petition the appellate tax board under the provisions of chapter 58A.

249 (f) The executive office of housing and livable communities, in consultation with the
250 department of revenue, shall promulgate regulations to carry out the provisions of this section,
251 which shall include, but not be limited to regulations that provide for the forfeiture of revenue
252 collected pursuant to this section to said executive office if such revenue has not been used for
253 affordable housing purposes within a reasonable amount of time.

254 (g) Two or more municipalities within the same county may join together to create a
255 regional affordable housing commission for the purposes of creating and preserving affordable or
256 attainable housing for the benefit of low-and-moderate income households or year-round
257 residents in municipalities designated as seasonal communities. If a municipality is a member of
258 a regional affordable housing commission, any authority granted to a city or town under this
259 section shall be exercised solely by the regional affordable housing commission, including
260 administration of the fee established under this section. Municipalities may, by a majority vote of
261 their respective legislative bodies, establish or disband by intermunicipal contract a regional
262 affordable housing commission. Such contract shall set forth: (i) the rights, powers and
263 obligations of the regional affordable housing commission; (ii) the number, composition, method
264 of selection, and terms of office of commissioners serving on such commission; (iii) the manner
265 by which the regional affordable housing commission may establish a transfer fee pursuant to

266 this section, and the amount of such transfer fee including any different rates based on property
267 classifications, if any; (iv) low- and moderate- income limits applicable to the regional affordable
268 housing commission fund as determined to be appropriate by the member cities and towns based
269 on housing needs and market conditions within such member cities and towns (v) the method by
270 which the contract may be amended or terminated; (vi) the term of the contract, not exceeding
271 twenty-five years; and (vii) any other matters, not incompatible with this section, which the
272 member cities and towns may deem advisable.