

SENATE No. 966

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 housing and mitigating investor real estate in seasonal communities.

PETITION OF:

NAME:

Julian Cyr

DISTRICT/ADDRESS:

Cape and Islands

SENATE No. 966

By Mr. Cyr, a petition (accompanied by bill, Senate, No. 966) of Julian Cyr for legislation to fund housing and mitigating investor real estate in seasonal communities. Housing.

The Commonwealth of Massachusetts

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

An Act relative to funding housing and mitigating investor real estate in seasonal communities.

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, year round housing trust fund or regional affordable housing commission 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 by the executive office pursuant to section 32 of chapter 23B. All activities shall be
20 subject to the income limits as are applicable to such municipal affordable housing trust fund,
21 year-round housing trust fund, regional affordable housing commission fund, assistance to a
22 housing authority as defined under section 1 of chapter 121B or other affordable housing
23 purposes pursuant to regulations promulgated by the executive office of housing and livable
24 communities.

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

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

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

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

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

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

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

56 transferred by or on behalf of the purchaser, including, but not limited to, any property, goods or
57 services paid, transferred or rendered in exchange for such real property interest.

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

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

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

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

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

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

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

88 “Transfer fee”, a fee, to be paid by purchaser upon the transfer of a real property interest
89 between said purchaser and the seller of such property.

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

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

96 (b) (1) A city or town designated as a seasonal community under section 32 of chapter
97 23B of the General Laws may, pursuant to subsection (e), impose a fee upon the transfer of real

98 property interest in any real property situated within the city or town, or real property situated in
99 the member cities and towns.

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

106 (3) A purchaser of real property bearing the fee established under this section or
107 settlement agent shall, in advance of the time of transfer, request and the city or town or regional
108 affordable housing commission, as applicable, shall provide to said party or settlement agent in
109 advance of the time of transfer a certificate indicating the dollar amount of the transfer fee owed
110 based on the agreed upon purchase price as evidenced by an executed purchase and sale
111 agreement, contract for sale or other document evidencing the agreed upon purchase price or that
112 the transfer is exempt from the transfer fee, stating the basis for the exemption.

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

119 (6) The transfer fee shall be paid within 7 days of the time of transfer by the settlement
120 agent to the city or town, or its designee, or to the regional affordable housing commission or its
121 designee, as applicable and shall be accompanied by a copy of the deed or other instrument
122 recorded or registered with the registry of deeds for the county in which the real property interest
123 is located, or the assistant recorder for the registry district of the county in which the real
124 property interest is located, and a copy of the affidavit of transfer fee. The city or town, or its
125 designee, or the regional affordable housing commission, or its designee as applicable, shall
126 promptly thereafter execute and issue a certificate indicating that the appropriate fee has been
127 paid.

128 (7) Upon receipt of a transfer fee by a city or town, the treasurer of the city or town shall
129 deposit the transfer fee in the city or town's municipal affordable housing trust fund or year-
130 round housing trust fund. Upon receipt of a transfer fee by a regional affordable housing
131 commission, or its designee, the regional affordable housing commission, or its designee, shall
132 deposit the transfer fee into the regional affordable housing commission fund.

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

135 (i) Transfers for less than \$1,000,000; provided, however, that a municipality or regional
136 affordable housing commission, as applicable, may adopt a higher threshold pursuant to this
137 section.

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

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

143 (iv) Transfers consisting of the division of marital assets under the provisions of section
144 34 of chapter 208 or other provisions of law;

145 (v) transfers of property in which the purchaser is a beneficiary of a city-approved
146 homeuyer program.

147 (vi) Transfers of an interest in real property containing not less than 3 residential units in
148 which not less than 1 residential unit or 25 per cent of the residential units, whichever is greater,
149 is governed by affordable housing restrictions; provided, however, that if less than 100 per cent
150 of the residential units are governed by affordable housing restrictions, the exemption shall apply
151 only to the portion of the property that is governed by affordable housing restrictions and the
152 transfer fee imposed pursuant to this section shall be proportionately reduced based on the
153 percentage of residential units subject to affordable housing restrictions, as compared to the total
154 number of units located on that property;

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

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

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

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

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

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

166 (vi) Transfers made in partition of land and improvements thereto, pursuant to chapter
167 241;

168 (vii) Transfers to any or religious organization, as defined pursuant to section 5 of
169 chapter 59; provided, however, that the real property interest so transferred will be held by the
170 charitable or religious organization solely for affordable housing-related uses that are consistent
171 with the uses allowed by the municipal affordable housing trust fund, year-round housing trust
172 fund or regional affordable housing commission fund, as applicable; and provided, further, that
173 such housing shall be subject to an affirmative fair housing marketing plan approved by the
174 executive office of housing and livable communities;

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

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

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

180 (xi) transfers of property in which the purchaser is a first-time homebuyer who lives in
181 the home for a specified number of years; and

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

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

189 (d) The city or town's treasurer, or the treasurer or other person designated by the
190 regional affordable housing commission, as applicable, shall keep a full and accurate account
191 stating when, from or to whom, and on what account, money has been paid or received relative
192 to the activities of the municipal, year-round or regional affordable housing trust fund.

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

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

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

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

209 (5) a city, town or regional affordable housing commission that adopts this section shall
210 adopt a bylaw, ordinance or regulation, as the case may be, which establishes a procedure by
211 which an aggrieved person may appeal the transfer fee amount, in whole or in part, or the denial
212 of an exemption.

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

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

221 (g) Two or more municipalities within the same county may join together to create a
222 regional affordable housing commission for the purposes of creating and preserving affordable or
223 attainable housing for the benefit of low-and-moderate income households or year-round
224 residents in municipalities designated as seasonal communities under section 32 of chapter 23B.

225 If a municipality is a member of a regional affordable housing commission, any authority
226 granted to a city or town under this section shall be exercised solely by the regional affordable
227 housing commission, including administration of the fee established under this section.

228 Municipalities may, by a majority vote of their respective legislative bodies, establish or disband
229 by intermunicipal contract a regional affordable housing commission. Such contract shall set
230 forth: (i) the rights, powers and obligations of the regional affordable housing commission; (ii)
231 the number, composition, method of selection, and terms of office of commissioners serving on
232 such commission; (iii) the manner by which the regional affordable housing commission may
233 establish a transfer fee pursuant to this section, and the amount of such transfer fee including any
234 different rates based on property classifications, if any; (iv) low- and moderate- income limits
235 applicable to the regional affordable housing commission fund as determined to be appropriate
236 by the member cities and towns based on housing needs and market conditions within such
237 member cities and towns (v) the method by which the contract may be amended or terminated;
238 (vi) the term of the contract, not exceeding twenty-five years; and (vii) any other matters, not
239 incompatible with this section, which the member cities and towns may deem advisable.