

HOUSE No. 4827

The Commonwealth of Massachusetts

PRESENTED BY:

David T. Vieira and Dylan A. Fernandes

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 residential property in the Town of Falmouth for the purpose of funding affordable housing.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>David T. Vieira</i>	<i>3rd Barnstable</i>	<i>6/26/2024</i>
<i>Dylan A. Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>	<i>6/26/2024</i>

HOUSE No. 4827

By Representatives Vieira of Falmouth and Fernandes of Falmouth, a petition (accompanied by bill, House, No. 4827) of David T. Vieira and Dylan A. Fernandes (by vote of the town) that the town of Falmouth be authorized to establish a real estate transfer fee upon the transfer of residential property in said town for the purpose of funding affordable housing. 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 residential property in the Town of Falmouth for the purpose of funding affordable housing.

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 “Falmouth Affordable Housing Fund” shall refer to the fund or account established by
4 Chapter 29 of the Acts of 2011.

5 “Purchaser” shall refer to the transferee, grantee, or recipient of any real property interest.

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

11 payments, given or promised to be given by or on behalf of the purchaser to the seller or his/her
12 nominee; the outstanding balance of all obligations of the seller which are assumed by the
13 purchaser or to which the real property interest transferred remains subject after the transfer,
14 determined at the time of transfer, but excluding real estate and other municipal liens or
15 assessments which are not overdue at the time of transfer.

16 “Real property interest” shall refer to any legal or equitable interest in or to real property,
17 and any beneficial interest therein, including the interest of any beneficiary in a trust which holds
18 any legal or equitable interest in real property, the interest of a partner or member in a
19 partnership or limited liability company, and the interest of a stockholder in a corporation.

20 “Seller” shall refer to the transferor, grantor, or immediate former owner of any real
21 property interest.

22 “Time of transfer” of any real property interest shall mean the time at which such transfer
23 is legally effective as between the parties thereto, and, in any event, with respect to a transfer
24 evidenced by an instrument recorded with the appropriate registry of deeds.

25 “Town” shall refer to the Town of Falmouth acting by and through the Select Board.

26 SECTION 2.

27 (a) There is hereby imposed a real estate transfer fee on the sale of residential real
28 estate where the purchase price is one million dollars or more; and the first million dollars of any
29 purchase price is exempted from the calculations made under this section. The amount of this
30 exemption may be amended by a 2/3 vote of Town Meeting;

31 (b) the transfer fee structure shall be a percentage of the purchase price, graduated as
32 follows: for conveyances where the purchase price is \$1 million but less than \$1,500,000, a fee
33 of 1% of the excess over \$1 million is assessed; and, for conveyances where the purchase price is
34 \$1,500,000 but less than \$2 million, a fee of 1% of the excess over \$1 million and in addition a
35 fee of 1.5% of the excess over \$1,500,000 is assessed; and, for conveyances where the purchase
36 price is \$2 million or more a fee of 1% of the excess over \$1 million and a fee of 1.5% of the
37 excess over \$1,500,000 up to and including \$2 million and a fee of 2% of the excess over \$2
38 million is assessed;

39 (c) the fee is payable by the seller at the time of transfer to the Town of Falmouth;
40 and

41 (d) all fees collected shall be deposited to the Falmouth Affordable Housing Fund.

42 SECTION 3. The Falmouth Affordable Housing Fund may use any funds deposited
43 under this Act for any purpose for which the Falmouth Affordable Housing Fund was
44 established.

45 SECTION 4. A copy of the deed or other instrument evidencing a transfer of property
46 subject to this transfer fee shall be provided to the Town and shall be accompanied by a) an
47 affidavit signed under oath or under the pains and penalties or perjury by the purchaser and the
48 seller attesting to the purchase price, (b) the applicable fee owed, and (c) the basis, if any, upon
49 which the transfer is claimed to be exempt from said fee. Upon receipt of the payment of the
50 transfer fee or satisfactory evidence of exemption, the Select Board or designee shall promptly
51 issue a certificate indicating that the fee has been paid or that the transfer is exempt from the fee.

52 SECTION 5. The following transfers of real property interests shall be exempt from the
53 fee established in Section 2. The seller shall have the burden of proof that any transfer is exempt
54 under this section.

55 (a) Transfers to the government of the United States, the commonwealth, and any of
56 their instrumentalities, agencies or subdivisions, including but not limited to transfers to the
57 Town of Falmouth;

58 (b) Transfers which, without additional consideration, confirm or correct a transfer
59 previously made;

60 (c) Transfers made with consideration of less than \$100.00;

61 (d) Transfers by operation of law without actual consideration, including but not
62 limited to transfers resulting from a court order or decree;

63 (e) Transfers to any charitable organization as defined in M.G.L. Ch. 59 § 5(3), or
64 any religious organization, provided that the real property interest so transferred will be held by
65 the charitable or religious organization solely for its public charitable or religious purposes;

66 (f) Transfers made between family members including spouses, parents and children,
67 grandparents and grandchildren, and siblings; and

68 (g) Transfers of any unit that is subject to a year round affordable housing deed
69 restriction approved by the Executive Office of Housing and Livable Communities,
70 MassHousing, or the Town of Falmouth.

71 SECTION 6. The Town shall have such remedies to collect an unpaid fee that is owed
72 to the Town as provided by law with respect to the collection of real property taxes.

73 SECTION 7. The Town may, by bylaw, adopt additional requirements, exemptions, and
74 regulations to implement or enforce the provisions of this Act, to be consistent with the Act. The
75 Town may not, by bylaw or otherwise, eliminate or reduce any exemption set forth in this act.

76 SECTION 8. This act shall take effect ninety (90) days following the date of passage.