

ARTICLE XX HOME RULE LEGISLATION/ REAL ESTATE TRANSFER FEE

To see if the Town will vote to authorize and request the Select Board to file Home Rule Legislation or other Special Legislation which would permit the Town to impose a real estate transfer fee or tax for the purposes of acquiring, creating, preserving, rehabilitating, restoring and supporting affordable housing in the Town; said fee or tax to be levied on the buyer, seller, or both on the purchase price of qualifying real estate, the proceeds of which are to be deposited in an Arlington Affordable Housing Trust Fund established pursuant to section 55C of chapter 44 of the General Laws; to set forth the rate, the qualifications for applicable transfers, and exemptions of and to such a tax or fee; and to authorize the procedures and requirements necessary for the collection of such fee; or take any action related thereto.

WHEREAS Arlington is one of the Commonwealth's wealthiest towns with a median household income, of \$~~103,594~~108,389¹, one of the highest in Boston's inner-core, and the median for married couples with dependent children is approximately \$~~147,318~~159,375².

WHEREAS Arlington has one of the highest median home price of any community in the Commonwealth, at \$~~775,000~~813,500³ and the average market rent is approximately \$~~1,593~~1,730⁴.

WHEREAS affordable housing is further compounded and complicated by a combination of regional housing demand and constrained supply.

WHEREAS in view of limits on Arlington revenue growth, there is likely insufficient funding from existing sources for affordable housing purposes after meeting the Town's existing operational and infrastructure maintenance commitments.

WHEREAS the Town of Arlington's Housing Plan Implementation Committee has explored a real estate transfer fee to expand Arlington affordable housing, among the possible purposes. While [the State House and Senate will be considering a ~~the State House will be considering transfer fee legislation for Somerville and Cambridge~~ local option bill](#) in 2021 ~~and many home rule petitions are still pending~~⁰, the Town should file its petition for the next legislative session so that Arlington may benefit and join any legislative hearings.

WHEREAS the Real Estate Transfer Fee, as recommended, would fund an Arlington Affordable Housing Trust Fund is equitable, very low impact, and inexpensive to administer.

WHEREAS a Real Estate Transfer Fee would be in line with the direction of neighboring communities including Concord, Cambridge, and Somerville moving to employ such fees to create affordable housing.

WHEREAS this type of fee is appropriate to fund housing and is clearly defined, nonrecurring purposes.

¹ ~~2013~~2015-2019-2017 American Community Survey

² 2015-2019 ~~2013-2017~~ American Community Survey

³ Banker and Tradesman

⁴ 2015-2019 ~~2013-2017~~ American Community Survey

WHEREAS a real estate transfer fee earmarked for the Arlington Affordable Housing Trust Fund (~~pending the 2020 Annual Town Meeting vote~~) is well suited to operate within the Town’s organizational structure and financial policies, and is specifically adapted to and compatible with the unique combination of long established neighborhoods and commercial districts in Arlington.

THEREFORE, the Town of Arlington hereby requests that the Legislature grant the Town of Arlington authority to levy a real estate transfer fee of the portion of the purchase price exceeding a threshold set by the Select Board for the last 12 months upon the transfer of the purchase price of non-exempt real estate transactions, but not less than 100% of the statewide median sale price of a single family home as determined by the Department of Housing and Community Development, to range between 0.05% and 2.0% as set by the Select Board. 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.

Comment [EZ1]: Consensus bill exempts sales that are less than the statewide median average of single family homes.
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~~And~~ that the Town shall authorize certain transfers of real property interests be exempt from the fee including: transfers made as gifts with consideration less than \$100 if the seller shall have been at the time of the transfer the spouse, lineal descendant, or the lineal ancestor of the purchaser, by blood, marriage, or adoption; transfers to the federal government, the Commonwealth, ~~the Town,~~ and any of their instrumentalities, agencies or subdivisions, including the Town and the Arlington Housing Authority; transfers of ~~real property subject to an affordable housing restriction~~ residential property that include one or more units governed by affordable housing restrictions provided that the fee imposed shall be proportionately reduced based on the percentage of residential units with affordable housing restrictions, as compared to the total number of residential units; transfers made without additional consideration to confirm, correct, modify or supplement a transfer previously made; transfers by operation of law without actual consideration, including but not limited to transfers occurring by virtue of death or bankruptcy of the owner of real property interest; transfers made in partition of land and improvements thereto, under chapter 241 of the General Laws; ~~and~~ 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 ~~the production of affordable housing~~ affordable-housing related uses that are consistent with the uses allowed by the Arlington Affordable Housing Trust Fund; transfers for a mortgagee in foreclosure of the mortgage held by the mortgagee, and transfers of the property subject to a mortgage to the mortgagee in consideration of the forbearance of the mortgagee from closing such mortgage; and transfers consisting of the division of marital assets under the provisions of Section 34 of chapter 208 of the General Laws or other provisions of law.

Comment [EZ2]: Section updated based on the consensus bill.

And the Town may not, by bylaw or otherwise, eliminate or reduce any exemption set forth in this in this law.

And that the Town may use existing ~~property tax collection and billing methods~~ methods for collection and liening of any outstanding transfer fee. The fee shall be paid to the Town. 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 ~~by-law~~, adopt additional requirements, exemptions, waivers, and regulations to implement or enforce said fee, consistent with this act.

And that the Town shall require a copy of the deed or other instrument evidencing such transfer 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 above 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 fees. 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 South Middlesex Registry of Deeds shall not record or register a deed unless the deed is accompanied by such certificate.

And that the Town's appropriation of funds into the Arlington Affordable Housing Trust Fund under the provisions of MGL Chapter 44 Section 55 C, shall be limited to financing affordable housing and reasonable amounts for personnel and other costs.

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

And that this Act shall only become effective by a majority vote for a question on a Town election ballot or act on anything relative thereto.