

A Resolution authorizing the Town of Brookline Select Board to file a home rule petition with the General Court to create a Brookline land bank.

To see if the Town will authorize and empower the Select Board, on such date and in such manner as required by the House Clerk, to file a petition for legislation to establish a Brookline Land Bank, which will be considered in the legislative session opening on the first Wednesday in January in the year 2019, provided that the General Court may reasonably vary the form and substance of this requested draft of legislation which shall be within the scope of the general public objectives of this petition.

An Act authorizing the Town of Brookline to impose a real estate transfer fee.

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. Whereas there is evidence that Brookline's 2010 population will increase 12% – 17% by 2030;

Whereas Brookline land devoted to affordable housing, schools, parks, open space, recreational facilities, and conservation areas is already insufficient to meet Brookline's current needs;

Whereas Brookline is missing opportunities to acquire land for economic development;

Whereas currently available public land will face growing demands as a result of further population growth;

Whereas in order to meet the growing need for public facilities, amenities, and economic development, Brookline should acquire, through purchases, additional land for municipal purposes;

Whereas in view of limits on Brookline revenue growth, there is likely no funding from existing sources available for land purchase after meeting the Town's existing operational and infrastructure maintenance commitments;

Whereas the Real Estate Transfer Fee, as recommended, to fund the Brookline Land Bank is equitable, very low impact, and inexpensive to administer;

Whereas this type of fee is appropriate to fund these selected, specific, clearly defined, non-

recurring purposes;

Whereas the Brookline Land Bank 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 urban and suburban neighborhoods and commercial districts in Brookline.

SECTION 2. Except where otherwise exempted pursuant to this act, the Town of Brookline may impose a fee of up to one per cent (1.0%) of the purchase price upon the transfer of any real property interest or the transfer of a controlling interest in a trust, limited liability company, or other entity that directly or indirectly holds an interest, in any real property situated in the Town of Brookline, as follows: (A) a fee in the amount of up to one-half per cent (0.5%) of the portion of said purchase price in excess of not less than \$500,000 shall be due and payable by the seller; and (B) a fee in the amount of up to one-half per cent (0.5%) of the portion of said purchase price in excess of not less than \$500,000 shall be due and payable by the purchaser. In the case of a transfer of a controlling interest, the Town of Brookline may define by bylaw what constitutes a controlling interest and the calculation of the fee. The Town of Brookline is hereinafter referred to as the "Town".

(a) Exempt Transfers. The following transfers of real property interests shall be exempt from the fee established by this act: (i) transfers between family members as may be defined by bylaw; (ii) transfers of convenience as may be defined by bylaw; and (iii) transfers to the government of the United States or any other instrumentality, agency or subdivision thereof, or the Commonwealth or any instrumentality or subdivision thereof.

(b) Exempt Sellers; Fee Due by Non-Exempt Seller. The seller of residential real property in the Town shall be exempt from the fee authorized in Section 2, if the seller of such real property is a vulnerable senior, veteran, disabled, or blind person, as may be defined by bylaw.

(c) Exempt Purchasers; Fee Due by Non-Exempt Purchaser. The purchaser of residential real property in the Town shall be exempt from the fee authorized in Section 2, if the purchaser of such real property is a vulnerable senior, veteran, disabled, or blind person, as may be defined by bylaw.

(d) The fee shall be paid to the Town of Brookline. The Town is authorized to adopt a bylaw to provide for the collection and liening of any outstanding transfer fee. The Town shall have such remedies to collect said amount as provided by law with respect to the collection of real property taxes.

(e) The Town shall deposit all fees received pursuant to this act into the Brookline Real Estate Transfer Fee Revolving Fund established by the Town.

SECTION 3. A copy of the deed or other instrument evidencing such transfer shall be provided to the Town and shall be accompanied by, (a) an affidavit signed under oath or under the pains and penalties of perjury by the purchaser and seller attesting to the purchase price, (b) the applicable fee owed, and (c) the basis, if any, upon which the transfer, or one or both of the parties to the transfer, is claimed to be exempt in whole or in part from said fee. (Upon receipt of such payment and/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 purchaser or seller, or the transfer, is exempt from the fee. The Norfolk County Register of Deeds shall not record or register a deed unless the deed is accompanied by such certificate.

SECTION 4. The Town may, by bylaw, adopt additional requirements, exemptions, and regulations to implement or enforce said fee, consistent with this act. The Town is not authorized to eliminate or reduce any exemption set forth in this act.

SECTION 5. Transfer Fee Revolving Fund restricted to allocation to (i) transfer to a Housing Trust Fund Account under the terms and restrictions of section 55C, chapter 44, Chapter 482 of the Acts of 1991, or other municipally established Affordable Housing Trust Fund; (ii) transfer to a Conservation Commission fund established under the terms and restrictions of section 8C, chapter 40; (iii) purchase of land under the terms and restrictions of section 14, chapter 40; (iv) purchase of land for parks, parkways, and playgrounds under the terms and restrictions sections 3 – 4 and 14, chapter 45; (v) appropriation of reasonable amounts for personnel and other costs required for the

administration of this act.

SECTION 6. The Affordable Housing Trust Fund, as permitted by the bylaw establishing said Affordable Housing Trust Fund and its governing documents, shall use revenue from the fees raised pursuant to this act to fund affordable housing programs including, but not limited to, limited equity arrangements, community land trusts, purpose-built housing, and other programs to underwrite the affordability of properties with a preference, where permitted by applicable law, for current and recent Somerville residents and employees.

SECTION 7. The Town shall prepare and issue an annual report that (i) identifies fee receipts by payer category including buyers and sellers; (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. (iv) enumerates and quantifies land purchases and how said purchases serve to meet the need of the Town for additional parks, open space, recreational facilities, and protected land.

SECTION 8. Upon the passage of this special law, the act shall become effective by vote of a referendum of Brookline voters at the next regular municipal or state election. The town clerk or the state secretary shall place it on the ballot in the form of the following question: "Shall this town accept this special law?" The question shall set forth a fair, concise summary and purpose of the law to be acted upon, as determined by the town counsel, including in said summary the maximum allowable percentage of the real estate transfer tax to be imposed. If a majority of the voters voting on said question vote in the affirmative, then its provisions shall take effect in Brookline, but not otherwise.

or act on anything relative thereto.