

H.168 An act relating to the property transfer tax

Current law:

- Applies to transfer of real property by deed.
- Paid by the buyer or transferee.
- Return must be filed with town clerk when deed is filed.
- Property subject to the tax is also subject to a Clean Water Surcharge.
- The following chart shows how the rates are applied:

WHEN TO APPLY THE PROPERTY TRANSFER TAX AND THE CLEAN WATER SURCHARGE				
TYPE OF PROPERTY	VALUE TAXED	0.5% PROPERTY TRANSFER TAX	1.25% PROPERTY TRANSFER TAX	0.2% CLEAN WATER SURCHARGE
Not Principal Residence	All		✓	✓
Principal Residence	\$0-\$100,000	✓		
	Marginal Value > \$100,000		✓	✓
Principal Residence Purchased w/ VHFA, VCTF, or USDA Assistance	\$0-\$110,000			
	\$110,000 - \$200,000		✓	
	Marginal Value > \$200,000		✓	✓

Proposal:

- Legal entities, such as LLCs, corporations, or partnerships can hold title to real property by deed.
- It is possible under current law for beneficial ownership of real property to be transferred by selling stock or ownership interests in the legal entity holding the property. Since the deed is never transferred, the tax is never due.
- The proposal primarily changes the definitions section of the property transfer tax to make it clear that the transfer of a controlling interest in a legal entity that holds real property triggers liability for the tax.
 - A controlling interest is 50 percent or more of the controlling stock or interest in the entity.
 - The tax is applied to value of the property held by the entity, apportioned to reflect the percentage of ownership interest that was transferred.
 - If more than one person is acting in concert, their interests are aggregated for the purpose of determining a controlling interest and their liability for the tax.