STATE OF NEW YORK

3259

2021-2022 Regular Sessions

IN ASSEMBLY

January 22, 2021

Introduced by M. of A. DILAN, BARRON, CRUZ, EPSTEIN, WALKER, REYES, GLICK, NOLAN, WILLIAMS, HYNDMAN -- Multi-Sponsored by -- M. of A. COOK, SIMON -- read once and referred to the Committee on Ways and Means

AN ACT to amend the administrative code of the city of New York, in relation to a tax on the transfer of certain real property within two years of the prior transfer of such property

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Short title. This act shall be known and may be cited as the "New York state small home anti-speculation act".

§ 2. Section 11-2101 of the administrative code of the city of New York is amended by adding six new subdivisions 19, 20, 21, 22, 23 and 24 to read as follows:

<u>19. "Prior conveyance of the property." The most recent conveyance of the real property, whether conveyed on its own or as part of a larger conveyance.</u>

<u>20. "Family member." A person's child, spouse, domestic partner, parent, sibling, grandchild or grandparent, or the child or parent of a person's spouse or domestic partner.</u>

<u>21. "Principal place of residence." A person's permanent or primary home that the person occupies for more than a temporary or transitory purpose.</u>

<u>22. "New housing." A residential unit or units that did not exist at the time of the prior conveyance of the property to the extent that the property had no residential units at the time of the prior conveyance and at least one residential unit was subsequently added.</u>

<u>23. "Qualified persons." Qualified persons shall not include business trusts, estates, trusts, limited liability companies, limited liability partnerships, limited liability investment companies, associations, joint ventures, business or nonprofit entities, public corporations,</u>

EXPLANATION--Matter in <u>italics</u> (underscored) is new; matter in brackets [-] is old law to be omitted.

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government or governmental subdivisions, agencies, instrumentalities, or other legal or commercial entities.

24. "Mortgagee." The holder of a mortgage and/or note secured by residential real property, including, as applicable, the original lender under a mortgage, its successors and assigns, and the holders of credit instruments issued under a trust indenture, mortgage or deed of trust pursuant to which such holders act by and through a trustee therein named.

§ 3. The administrative code of the city of New York is amended by adding a new section 11-2120 to read as follows:

§ 11-2120 Imposition of speculation tax. a. In addition to the tax imposed by section 11-2102 of this chapter, there is hereby imposed on each deed, instrument or transaction at the time of the transfer whereby any properties of one to five separate residential units are transferred by a grantor to a grantee, and such transfer is made within two years from the prior conveyance of the property, including but not limited to transfers which are all cash transactions and transfers of property which have been rented out during such two-year period. The tax, which shall be paid by the grantor, shall be at the rate of:

(1) twenty percent when the time since the prior conveyance of the property is less than one year; and

(2) fifteen percent when the time since the prior conveyance of the property is greater than or equal to one year but less than two years.

b. The tax defined in subdivision a of this section shall expire when the time since the prior conveyance of the property is two years.

c. All revenues resulting from the imposition of the tax under this section shall be deposited into a special account by the commissioner of finance. Moneys in such account shall be used by New York state homes and community renewal through the affordable housing corporation and the neighborhood preservation program for affordable housing purposes in cities of one million or more.

d. (1) The following qualified persons shall be exempt from the payment of the tax imposed by this section:

(i) Property owners conveying property to a family member.

(ii) Property owners who can demonstrate a financial hardship which justifies a conveyance of property in less than or equal to two years.

(2) The following properties shall be exempt from the payment of the tax imposed by this section:

(i) Property which was conveyed within one year of the death of the property owner.

(ii) Property being sold as new housing.

(iii) Property which the consideration or value conveyed, which is otherwise subject to the tax imposed in this section, is less than or equal to the consideration or value of such property conveyed at the time of the prior conveyance of property.

(iv) Property which was conveyed to a mortgagee or an affiliate agent thereof by a mortgagor be deed in lieu of foreclosure or in satisfaction of the mortgage debt.

(v) Property which was conveyed to a mortgagee or an affiliate agent thereof pursuant to a foreclosure sale that follows a default in the satisfaction of an obligation that is secured by a mortgage.

(vi) Property which is otherwise exempt from payment of a real property transfer tax pursuant to this chapter.

§ 4. This act shall take effect on the ninetieth day after it shall have become a law and shall apply to conveyances occurring on or after such date.