

STATE OF NEW YORK

7922

2025-2026 Regular Sessions

IN ASSEMBLY

April 11, 2025

Introduced by M. of A. MAHER -- read once and referred to the Committee on Local Governments

AN ACT to amend the town law and the tax law, in relation to authorizing the town of Rochester to establish community housing funds to be funded by a supplemental real estate transfer tax

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "Town of Rochester community housing act".

3 § 2. The town law is amended by adding a new section 64-1 to read as
4 follows:

5 § 64-1. Town of Rochester community housing fund. 1. Definitions. As
6 used in this section, the following words and terms shall have the
7 following meanings:

8 (a) "Town" means the town of Rochester.

9 (b) "Community housing" means a primary residential property for an
10 eligible individual that does not exceed one hundred fifty percent of
11 the purchase price limits established by the state of New York mortgage
12 agency low interest rate loan program in non-target categories for
13 Ulster county in effect on the contract date for the sale of such prop-
14 erty.

15 (c) "Board" means the advisory board created pursuant to subdivision
16 six of this section.

17 (d) "Fund" means the community housing fund authorized pursuant to
18 subdivision two of this section.

19 (e) "First-time homebuyer" means an eligible individual who has not
20 owned a primary residential property and is not married to a person who
21 has owned a residential property during the three-year period prior to
22 such person's purchase of the primary residential property, and who does
23 not own a vacation or investment home.

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

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1 (f) "Primary residential property" means any one or two family house,
2 townhouse, or condominium.

3 (g) "Eligible individual" means a household with an income that does
4 not exceed one hundred percent of the income limits as established by
5 the state of New York mortgage agency low interest rate loan program in
6 non-target categories for Ulster county in effect on the contract date
7 for the sale of such property.

8 2. Fund authorized. The town board of Rochester is authorized to
9 establish by local law a community housing fund, pursuant to the
10 provisions of this section. Deposits into the fund may include revenues
11 of the local government from whatever source, including but not limited
12 to: (a) all revenues from the supplemental real estate transfer tax
13 authorized by subdivision two of section fourteen hundred forty-nine-
14 bbbbbb of the tax law; (b) all proceeds from any indebtedness or obli-
15 gations issued pursuant to the local finance law for community housing
16 opportunity purposes as authorized in subdivision three of this section;
17 (c) general fund balances or surpluses; (d) any proceeds received by the
18 local government from the sale or rental of community housing produced
19 from revenues of the fund; (e) the repayment of any loans issued from
20 proceeds of the fund; (f) any gifts of interests in land or funds; and
21 (g) any state or federal grants received by the town for providing
22 affordable homes.

23 3. Purposes of the fund. The proceeds of the fund established pursuant
24 to subdivision two of this section shall be utilized for the following
25 purposes:

26 (a) the provision of financial assistance to first-time homebuyers who
27 are residents of the town for the purchase of a first home. Such finan-
28 cial assistance may be in the form of a grant or a loan;

29 (1) A town may provide financial assistance for the purchase of a
30 first home to a first-time homebuyer who is a resident of the town or
31 who is employed in the town. A resident of the town shall include a
32 person who is currently a resident of the town or a non-resident who has
33 been a resident within the past five years.

34 (2) Such financial assistance shall not exceed fifty percent of the
35 purchase price of the home.

36 (3) If such financial assistance is in the form of a loan, such loan
37 shall be repayable to the town pursuant to the terms agreed to between
38 the recipient and the town, provided that any loan shall be fully repaid
39 by the recipient upon the resale of the home.

40 (4) For the purposes of calculating town tax liability for such prop-
41 erty, only, the dollar amount of any financial assistance for the
42 purchase of a first home made by the town pursuant to this section shall
43 be subtracted from the full equalized assessed value of such property.

44 (5) All revenues received by the town from the repayment of a loan
45 shall be deposited in the fund.

46 (6) A town may provide financial assistance for community housing in
47 conjunction with a public/private partnership for employer assisted
48 housing.

49 (b) the actual production of community housing for sale to eligible
50 individuals by the town;

51 (c) the actual production of community housing for sale to eligible
52 individuals in conjunction with a public/private partnership, where the
53 private partner agrees to comply with the profit guidelines of the New
54 York state affordable housing corporation and the provisions of this
55 section;

1 (d) the actual production and maintenance of community housing for
2 rental to eligible individuals either by the town or the town housing
3 authority; or in conjunction with a public/private partnership, where
4 the private partner agrees to comply with the profit guidelines of the
5 New York state affordable housing corporation and the provisions of this
6 section;

7 (e) the rehabilitation of existing buildings and structures in the
8 town for the purpose of conversion to community housing for sale or
9 rental to eligible individuals;

10 (f) the acquisition of interests in real property in existing housing
11 units, which will result in the production of community housing for sale
12 or rental to eligible individuals; and

13 (g) the provision of housing counseling services by not-for-profit
14 corporations who are authorized by the United States department of hous-
15 ing and urban development to provide such services.

16 4. Fund management. Interest accrued by monies deposited into the fund
17 shall be credited to the fund. In no event shall monies deposited into
18 the fund be transferred to any other account. Nothing contained in this
19 section shall be construed to prevent the financing in whole or in part,
20 pursuant to the local finance law, of any purpose authorized pursuant to
21 this section. Monies from the fund may be utilized to repay indebtedness
22 or obligations incurred pursuant to the local finance law consistent
23 with effectuating the purposes of this section.

24 5. Eligible expenses. For the purposes of this section, eligible
25 expenses relating to the production of community housing and the reha-
26 bilitation of existing buildings and structures under the fund shall
27 include but not be limited to land acquisition, planning, engineering,
28 construction costs, and other hard and soft costs directly related to
29 the construction, rehabilitation, purchase or rental of housing pursuant
30 to this section. All revenues received by the town from the sale or
31 rental of community homes, or the repayment of loans shall be deposited
32 in the fund.

33 6. Advisory board established. The town board which has established a
34 community housing fund pursuant to this section shall create an advisory
35 board to review and make recommendations regarding the town's community
36 housing plan required by subdivision seven of this section. Such board
37 shall consist of not less than seven nor more than fifteen legal resi-
38 dents of the municipality who shall serve without compensation. No
39 member of the local legislative body shall serve on the board. The board
40 shall include a representative of: (a) the construction industry; (b)
41 the real estate industry; (c) the banking industry; and three represen-
42 tatives of local housing advocacy or human services organizations. Where
43 a village or villages, located within the town, have elected to partic-
44 ipate in the fund, as provided in subdivision seven of this section, the
45 board shall include at least one resident of a participating village or
46 villages. Where an Indian nation is located within the boundaries of a
47 town, the board shall include at least one member from such nation. The
48 board shall act in an advisory capacity to the town board.

49 7. Adoption of housing plan. (a) Before the town may expend any funds
50 pursuant to this section, the town board shall first adopt a town hous-
51 ing plan which establishes an implementation plan for the provision of
52 community housing opportunities by the fund. Said plan shall be adopted
53 by local law. Such plan shall adhere to the following smart growth prin-
54 ciples:

55 (1) Public investment. To account for and minimize social, economic,
56 and environmental costs of new development, including infrastructure

1 costs such as transportation, sewers, and wastewater treatment, water,
2 schools, recreation, and loss of open space and agricultural land;

3 (2) Development. To encourage development in areas where transporta-
4 tion, water, and sewage infrastructure are available or practical;

5 (3) Conservation. To protect, preserve, and enhance the state's
6 resources, including agricultural land, forests, surface waters, ground-
7 water, recreation and open space, scenic areas, and significant historic
8 and archeological sites;

9 (4) Coordination. To promote coordination of state and local govern-
10 ment decisions and cooperation among communities to work toward the most
11 efficient, planned and cost-effective delivery of government services
12 by, among other means, facilitating cooperative agreements among adja-
13 cent communities, and to coordinate planning to ensure compatibility of
14 one's community development with development of neighboring communities;

15 (5) Community design. To strengthen communities through development
16 and redevelopment strategies that include integration of all income and
17 age groups, mixed land uses, and compact development, traditional neigh-
18 borhood development, planned unit development, open space districts,
19 downtown revitalization, brownfield redevelopment, enhanced beauty in
20 public spaces, and diverse and community housing in close proximity to
21 places of employment, recreation, and commercial development;

22 (6) Transportation. To provide transportation choices, including
23 increasing public transit and alternative modes of transportation, in
24 order to reduce automobile dependency, traffic congestion, and automo-
25 bile pollution;

26 (7) Consistency. To ensure predictability in building and land use
27 codes; and

28 (8) Community collaboration. To provide for and encourage local
29 governments to develop, through a collaborative community-based effort,
30 smart growth plans that include long term land use and permit predict-
31 ability and coordination, efficient decision making and planning imple-
32 mentation.

33 (b) Such plan may include the establishment of a map or maps that
34 delineate the housing implementation recommendations proposed by the
35 town.

36 (c) Such plan shall be updated at least once every five years.

37 (d) The town housing plan shall be an element of the town's comprehen-
38 sive plan.

39 (e) Such plan shall ensure that all community housing created pursuant
40 to this section remains affordable. Subsequent purchasers of such commu-
41 nity housing shall have at the time of purchase, pursuant to the defi-
42 nition "eligible individual", an income that does not exceed one hundred
43 percent of the income limits as established by the state of New York
44 mortgage agency low interest rate loan program in non-target categories
45 for Ulster county.

46 (f) Such plan shall provide for the equitable distribution of communi-
47 ty housing opportunities among all the communities of the town. The plan
48 shall ensure that no community has an undue concentration of community
49 housing opportunities that would substantially alter the character of
50 the community. In determining equitable distribution of community hous-
51 ing opportunities, existing community housing opportunities in a commu-
52 nity shall be considered.

53 8. Village participation. (a) The participation of any village in the
54 production of community housing authorized by this section shall be at
55 the option of the village. In order to participate, a village shall pass

a resolution opting into the program and shall submit said resolution to the town board.

(b) Where a village opts to participate pursuant to this subdivision, an intergovernmental agreement shall be executed pursuant to article five-G of the general municipal law or other applicable legal authority, in order to establish the rights and responsibilities of each government regarding community housing opportunities.

(c) Regardless of whether a village participates in the program authorized by this section, properties in the village shall be subject to the supplemental real estate transfer tax authorized by subdivision two of section fourteen hundred forty-nine-bbbbbbbb of the tax law.

§ 3. The tax law is amended by adding a new article 31-J to read as follows:

ARTICLE 31-J
TAX ON REAL ESTATE TRANSFERS
IN THE TOWN OF ROCHESTER

Section 1449-aaaaaaaa. Definitions.

1449-bbbbbbbb. Imposition of tax.

1449-cccccccc. Payment of tax.

1449-dddddddd. Liability for tax.

1449-eeeeeeee. Exemptions.

1449-ffffff. Credit.

1449-gggggggg. Cooperative housing corporation transfers.

1449-hhhhhhhh. Designation of agents.

1449-iiiiiiii. Liability of recording officer.

1449-jjjjjjjj. Refunds.

1449-kkkkkkkk. Deposit and disposition of revenue.

1449-llllllll. Judicial review.

1449-mmmmmmmm. Apportionment.

1449-nnnnnnnn. Miscellaneous.

1449-oooooooo. Returns to be secret.

1449-pppppppp. Foreclosure proceedings.

§ 1449-aaaaaaaa. Definitions. When used in this article, unless otherwise expressly stated, the following words and terms shall have the following meanings:

1. "Person" means an individual, partnership, limited liability company, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, any combination of individuals, and any other form of unincorporated enterprise owned or conducted by two or more persons.

2. "Controlling interest" means (a) in the case of a corporation, either fifty percent or more of the total combined voting power of all classes of stock of such corporation, or fifty percent or more of the capital, profits or beneficial interest in such voting stock of such corporation, and (b) in the case of a partnership, association, trust or other entity, fifty percent or more of the capital, profits or beneficial interest in such partnership, association, trust or other entity.

3. "Real property" means every estate or right, legal or equitable, present or future, vested or contingent, in lands, tenements or hereditaments, including buildings, structures and other improvements thereon, which are located in whole or in part within the town of Fishkill. It shall not include rights to sepulture.

4. "Consideration" means the price actually paid or required to be paid for the real property or interest therein, including payment for an option or contract to purchase real property, whether or not expressed

1 in the deed and whether paid or required to be paid by money, property,
2 or any other thing of value. It shall include the cancellation or
3 discharge of an indebtedness or obligation. It shall also include the
4 amount of any mortgage, purchase money mortgage, lien or other encum-
5 brance, whether or not the underlying indebtedness is assumed or taken
6 subject to.

7 (a) In the case of a creation of a leasehold interest or the granting
8 of an option with use and occupancy of real property, consideration
9 shall include, but not be limited to, the value of the rental and other
10 payments attributable to the use and occupancy of the real property or
11 interest therein, the value of any amount paid for an option to purchase
12 or renew and the value of rental or other payments attributable to the
13 exercise of any option to renew.

14 (b) In the case of a creation of a subleasehold interest, consider-
15 ation shall include, but not be limited to, the value of the sublease
16 rental payments attributable to the use and occupancy of the real prop-
17 erty, the value of any amount paid for an option to renew and the value
18 of rental or other payments attributable to the exercise of any option
19 to renew less the value of the remaining prime lease rental payments
20 required to be made.

21 (c) In the case of a controlling interest in any entity that owns real
22 property, consideration shall mean the fair market value of the real
23 property or interest therein, apportioned based on the percentage of the
24 ownership interest transferred or acquired in the entity.

25 (d) In the case of an assignment or surrender of a leasehold interest
26 or the assignment or surrender of an option or contract to purchase real
27 property, consideration shall not include the value of the remaining
28 rental payments required to be made pursuant to the terms of such lease
29 or the amount to be paid for the real property pursuant to the terms of
30 the option or contract being assigned or surrendered.

31 (e) In the case of (1) the original conveyance of shares of stock in a
32 cooperative housing corporation in connection with the grant or transfer
33 of a proprietary leasehold by the cooperative corporation or cooperative
34 plan sponsor, and (2) the subsequent conveyance by the owner thereof of
35 such stock in a cooperative housing corporation in connection with the
36 grant or transfer of a proprietary leasehold for a cooperative unit
37 other than an individual residential unit, consideration shall include a
38 proportionate share of the unpaid principal of any mortgage on the real
39 property of the cooperative housing corporation comprising the cooper-
40 ative dwelling or dwellings. Such share shall be determined by multiply-
41 ing the total unpaid principal of the mortgage by a fraction, the numer-
42 ator of which shall be the number of shares of stock being conveyed in
43 the cooperative housing corporation in connection with the grant or
44 transfer of a proprietary leasehold and the denominator of which shall
45 be the total number of shares of stock in the cooperative housing corpo-
46 ration.

47 5. "Conveyance" means the transfer or transfers of any interest in
48 real property by any method, including but not limited to, sale,
49 exchange, assignment, surrender, mortgage foreclosure, transfer in lieu
50 of foreclosure, option, trust indenture, taking by eminent domain,
51 conveyance upon liquidation or by a receiver, or transfer or acquisition
52 of a controlling interest in any entity with an interest in real proper-
53 ty. Transfer of an interest in real property shall include the creation
54 of a leasehold or sublease only where (a) the sum of the term of the
55 lease or sublease and any options for renewal exceeds forty-nine years,
56 (b) substantial capital improvements are or may be made by or for the

1 benefit of the lessee or sublessee, and (c) the lease or sublease is for
2 substantially all of the premises constituting the real property.
3 Notwithstanding the foregoing, conveyance of real property shall not
4 include a conveyance made pursuant to devise, bequest or inheritance;
5 the creation, modification, extension, spreading, severance, consol-
6 idation, assignment, transfer, release or satisfaction of a mortgage; a
7 mortgage subordination agreement, a mortgage severance agreement, an
8 instrument given to perfect or correct a recorded mortgage; or a release
9 of lien of tax pursuant to this chapter or the internal revenue code.

10 6. "Interest in the real property" includes title in fee, a leasehold
11 interest, a beneficial interest, an encumbrance, development rights, air
12 space and air rights, or any other interest with the right to use or
13 occupancy of real property or the right to receive rents, profits or
14 other income derived from real property. It shall also include an option
15 or contract to purchase real property. It shall not include a right of
16 first refusal to purchase real property.

17 7. "Grantor" means the person making the conveyance of real property
18 or interest therein. Where the conveyance consists of a transfer or an
19 acquisition of a controlling interest in an entity with an interest in
20 real property, "grantor" means the entity with an interest in real prop-
21 erty or a shareholder or partner transferring stock or partnership
22 interest, respectively.

23 8. "Grantee" means the person who obtains real property or interest
24 therein as a result of a conveyance.

25 9. "Fund" means a community preservation fund created pursuant to
26 section sixty-four-1 of the town law.

27 10. "Recording officer" means the county clerk of the county of
28 Ulster.

29 11. "Town" means the town of Rochester, county of Ulster.

30 12. "Treasurer" means the treasurer of the county of Ulster.

31 13. "Town supervisor" means the town supervisor of the town of Roches-
32 ter.

33 14. "Tax" shall mean the real estate transfer tax imposed pursuant to
34 section fourteen hundred forty-nine-bbbbbbbb of this article or, if the
35 context clearly indicates, shall mean the real estate transfer tax
36 imposed pursuant to article thirty-one of this chapter.

37 15. "Residential real property" means property which satisfies at
38 least one of the following conditions:

39 (a) the property classification code assigned to the property on the
40 latest final assessment roll, as reported on the transfer report form,
41 indicates that the property is a one, two or three family home or a
42 rural residence; or

43 (b) the transfer report indicates that the property is a one, two or
44 three family residential property that has been newly constructed on
45 vacant land; or

46 (c) the transfer report form indicates that the property is a residen-
47 tial condominium.

48 § 1449-bbbbbbbb. Imposition of tax. Notwithstanding any other
49 provisions of law to the contrary, in addition to the tax authorized by
50 subdivision one of this section, the town, acting through its town
51 board, is hereby authorized and empowered to adopt a local law imposing
52 in such town a supplemental tax on each conveyance of real property or
53 interest therein where the consideration exceeds five hundred dollars,
54 at the rate of one half of one percent of the consideration for such
55 conveyance. Provided, however, any such local law imposing, repealing or
56 re-imposing such supplemental tax shall be subject to a mandatory refer-

1 endum pursuant to section twenty-three of the municipal home rule law.
2 Notwithstanding the foregoing, prior to adoption of such local law, the
3 town must establish a community housing fund pursuant to section sixty-
4 four-1 of the town law. Revenues from such supplemental tax shall be
5 deposited in such fund and may be used solely for the purposes of such
6 fund. Such local law shall apply to any conveyance occurring on or after
7 the first day of a month to be designated by such town board, which is
8 not less than sixty days after the enactment of such local law, but
9 shall not apply to conveyances made on or after such date pursuant to
10 binding written contracts entered into prior to such date, provided that
11 the date of execution of such contract is confirmed by independent
12 evidence such as the recording of the contract, payment of a deposit or
13 other facts and circumstances as determined by the treasurer. Any tax
14 imposed pursuant to this subdivision shall be administered and collected
15 in a like manner as the tax imposed by subdivision one of this section.

16 § 1449-cccccccc. Payment of tax. 1. The real estate transfer tax
17 imposed pursuant to this article shall be paid to the treasurer or the
18 recording officer acting as the agent of the treasurer upon designation
19 as such agent by the treasurer. Such tax shall be paid at the same time
20 as the real estate transfer tax imposed by article thirty-one of this
21 chapter is required to be paid. Such treasurer or recording officer
22 shall endorse upon each deed or instrument effecting a conveyance a
23 receipt for the amount of the tax so paid.

24 2. A return shall be required to be filed with such treasurer or
25 recording officer for purposes of the real estate transfer tax imposed
26 pursuant to this article at the same time as a return is required to be
27 filed for purposes of the real estate transfer tax imposed by article
28 thirty-one of this chapter. The treasurer shall prescribe the form of
29 return, the information which it shall contain, and the documentation
30 that shall accompany the return. Said form shall be identical to the
31 real estate transfer tax return required to be filed pursuant to section
32 fourteen hundred nine of this chapter, except that the treasurer shall
33 adapt said form to reflect the provisions in this chapter that are
34 inconsistent, different, or in addition to the provisions of article
35 thirty-one of this chapter. The real estate transfer tax returns
36 required to be filed pursuant to this section shall be preserved for
37 three years and thereafter until such treasurer or recording officer
38 orders them to be destroyed.

39 3. The recording officer shall not record an instrument effecting a
40 conveyance unless the return required by this section has been filed and
41 the tax imposed pursuant to this article shall have been paid as
42 required in this section.

43 § 1449-dddddddd. Liability for tax. 1. The real estate transfer tax
44 shall be paid by the grantee. If the grantee has failed to pay the tax
45 imposed pursuant to this article or if the grantee is exempt from such
46 tax, the grantor shall have the duty to pay the tax. Where the grantor
47 has the duty to pay the tax because the grantee has failed to pay the
48 tax, such tax shall be the joint and several liability of the grantee
49 and the grantor.

50 2. For the purpose of the proper administration of this article and to
51 prevent evasion of the tax hereby imposed, it shall be presumed that all
52 conveyances are subject to the tax. Where the consideration includes
53 property other than money, it shall be presumed that the consideration
54 is the fair market value of the real property or interest therein. These
55 presumptions shall prevail until the contrary is proven, and the burden

1 of proving the contrary shall be on the person liable for payment of the
2 tax.

3 § 1449-eeeeeeee. Exemptions. 1. The following shall be exempt from the
4 payment of the real estate transfer tax imposed by this article:

5 (a) The state of New York, or any of its agencies, instrumentalities,
6 political subdivisions, or public corporations (including a public
7 corporation created pursuant to an agreement or compact with another
8 state or the Dominion of Canada); and

9 (b) The United Nations, the United States of America or any of its
10 agencies or instrumentalities.

11 2. The tax shall not apply to any of the following conveyances:

12 (a) Conveyances to the United Nations, the United States of America,
13 the state of New York, or any of their instrumentalities, agencies or
14 political subdivisions (or any public corporation, including a public
15 corporation created pursuant to agreement or compact with another state
16 or the Dominion of Canada);

17 (b) Conveyances which are or were used to secure a debt or other obli-
18 gation;

19 (c) Conveyances which, without additional consideration, confirm,
20 correct, modify or supplement a deed previously recorded;

21 (d) Conveyances of real property without consideration and otherwise
22 than in connection with a sale, including deeds conveying realty as bona
23 fide gifts;

24 (e) Conveyances given in connection with a tax sale;

25 (f) Conveyances to effectuate a mere change of identity or form of
26 ownership or organization where there is no change in beneficial owner-
27 ship, other than conveyances to a cooperative housing corporation of the
28 real property comprising the cooperative dwelling or dwellings;

29 (g) Conveyances which consist of a deed of partition;

30 (h) Conveyances given pursuant to the federal bankruptcy act;

31 (i) Conveyances of real property which consist of the execution of a
32 contract to sell real property without the use or occupancy of such
33 property or the granting of an option to purchase real property without
34 the use or occupancy of such property;

35 (j) Conveyances of real property or a portion or portions of real
36 property that are the subject of one or more of the following develop-
37 ment restrictions:

38 (1) agricultural, conservation, scenic, or an open space easement;

39 (2) covenants or restrictions prohibiting development where the prop-
40 erty or portion of property being conveyed has had its development
41 rights permanently removed;

42 (3) a purchase of development rights agreement where the property or
43 portion of property being conveyed has had its development rights perma-
44 nently removed;

45 (4) a transfer of development rights agreement, where the property
46 being conveyed has had its development rights removed;

47 (5) real property subject to any locally adopted land preservation
48 agreement, provided said exemption is included in the local law imposing
49 the tax authorized by this article;

50 (k) Conveyances of real property, where the property is viable agri-
51 cultural land as defined in subdivision seven of section three hundred
52 one of the agriculture and markets law and the entire property to be
53 conveyed is to be made subject to one of the development restrictions
54 provided for in subparagraph two of paragraph (j) of this subdivision
55 provided that said development restriction precludes the conversion of
56 the property to a non-agricultural use for at least eight years from the

1 date of transfer, and said development restriction is evidenced by an
2 easement, agreement, or other suitable instrument which is to be
3 conveyed to the town simultaneously with the conveyance of the real
4 property; or

5 (1) Conveyances of real property for open space, parks, or historic
6 preservation purposes to any not-for-profit tax exempt corporation oper-
7 ated for conservation, environmental, or historic preservation purposes.

8 3. An exemption from the tax which is equal to the median sales price
9 of residential real property within the applicable county, as determined
10 by the office of real property services pursuant to section four hundred
11 twenty-five of the real property tax law, shall be allowed on the
12 consideration of the conveyance of improved or unimproved real property
13 or an interest therein.

14 § 1449-ffffff. Credit. A grantee shall be allowed a credit against
15 the tax due on a conveyance of real property to the extent tax was paid
16 by such grantee on a prior creation of a leasehold of all or a portion
17 of the same real property or on the granting of an option or contract to
18 purchase all or a portion of the same real property by such grantee.
19 Such credit shall be computed by multiplying the tax paid on the
20 creation of the leasehold or on the granting of the option or contract
21 by a fraction, the numerator of which is the value of the consideration
22 used to compute such tax paid which is not yet due to such grantor on
23 the date of the subsequent conveyance (and which such grantor will not
24 be entitled to receive after such date), and the denominator of which is
25 the total value of the consideration used to compute such tax paid.

26 § 1449-gggggggg. Cooperative housing corporation transfers. 1.
27 Notwithstanding the definition of "controlling interest" contained in
28 subdivision two of section fourteen hundred forty-nine-aaaaaaa of this
29 article or anything to the contrary contained in subdivision five of
30 section fourteen hundred forty-nine-aaaaaaa of this article, the tax
31 imposed pursuant to this article shall apply to (a) the original convey-
32 ance of shares of stock in a cooperative housing corporation in
33 connection with the grant or transfer of a proprietary leasehold by the
34 cooperative corporation or cooperative plan sponsor, and (b) the subse-
35 quent conveyance of such stock in a cooperative housing corporation in
36 connection with the grant or transfer of a proprietary leasehold by the
37 owner thereof. With respect to any such subsequent conveyance where the
38 property is an individual residential unit, the consideration for the
39 interest conveyed shall exclude the value of any liens on certificates
40 of stock or other evidences of an ownership interest in and a proprie-
41 tary lease from a corporation or partnership formed for the purpose of
42 cooperative ownership of residential interest in real estate remaining
43 thereon at the time of conveyance. In determining the tax on a convey-
44 ance described in paragraph (a) of this subdivision, a credit shall be
45 allowed for a proportionate part of the amount of any tax paid upon the
46 conveyance to the cooperative housing corporation of the real property
47 comprising the cooperative dwelling or dwellings to the extent that such
48 conveyance effectuated a mere change of identity or form of ownership of
49 such property and not a change in the beneficial ownership of such prop-
50 erty. The amount of the credit shall be determined by multiplying the
51 amount of tax paid upon the conveyance to the cooperative housing corpo-
52 ration by a percentage representing the extent to which such conveyance
53 effectuated a mere change of identity or form of ownership and not a
54 change in the beneficial ownership of such property, and then multiply-
55 ing the resulting product by a fraction, the numerator of which shall be
56 the number of shares of stock conveyed in a transaction described in

1 paragraph (a) of this subdivision, and the denominator of which shall be
 2 the total number of shares of stock of the cooperative housing corpo-
 3 ration (including any stock held by the corporation). In no event,
 4 however, shall such credit reduce the tax, on a conveyance described in
 5 paragraph (a) of this subdivision, below zero, nor shall any such credit
 6 be allowed for a tax paid more than twenty-four months prior to the date
 7 on which occurs the first in a series of conveyances of shares of stock
 8 in an offering of cooperative housing corporation shares described in
 9 paragraph (a) of this subdivision.

10 2. Every cooperative housing corporation shall be required to file an
 11 information return with the treasurer by July fifteenth of each year
 12 covering the preceding period of January first through June thirtieth
 13 and by January fifteenth of each year covering the preceding period of
 14 July first through December thirty-first. The return shall contain such
 15 information regarding the conveyance of shares of stock in the cooper-
 16 ative housing corporation as the treasurer may deem necessary, includ-
 17 ing, but not limited to, the names, addresses and employee identifica-
 18 tion numbers or social security numbers of the grantor and the grantee,
 19 the number of shares conveyed, the date of the conveyance and the
 20 consideration paid for such conveyance.

21 § 1449-hhhhhhhh. Designation of agents. The treasurer is authorized to
 22 designate the recording officer to act as such treasurer's agent for
 23 purposes of collecting the tax authorized by this article. The treasurer
 24 shall provide for the manner in which such person may be designated as
 25 such treasurer's agent subject to such terms and conditions as the trea-
 26 surer shall prescribe. The real estate transfer tax shall be paid to
 27 such agent as provided in section fourteen hundred forty-nine-ccccccc
 28 of this article.

29 § 1449-iiiiiiii. Liability of recording officer. A recording officer
 30 shall not be liable for any inaccuracy in the amount of tax imposed
 31 pursuant to this article that such officer shall collect so long as such
 32 officer shall compute and collect such tax on the amount of consider-
 33 ation or the value of the interest conveyed as such amounts are provided
 34 to such officer by the person paying the tax.

35 § 1449-jjjjjjjj. Refunds. Whenever the treasurer shall determine that
 36 any moneys received under the provisions of the local law enacted pursu-
 37 ant to this article were paid in error, such treasurer may cause such
 38 moneys to be refunded pursuant to such requirements as such treasurer
 39 may prescribe, provided that any application for such refund is filed
 40 with the treasurer within two years from the date the erroneous payment
 41 was made.

42 § 1449-kkkkkkkk. Deposit and disposition of revenue. 1. All taxes,
 43 penalties and interest imposed by the town under the authority of
 44 section fourteen hundred forty-nine-bbbbbbbb of this article, which are
 45 collected by the treasurer or such treasurer's agents, shall be deposit-
 46 ed in a single trust fund for the town and shall be kept in trust and
 47 separate and apart from all other monies in possession of the treasurer.
 48 Moneys in such fund shall be deposited and secured in the manner
 49 provided by section ten of the general municipal law. Pending expendi-
 50 ture from such fund, moneys therein may be invested in the manner
 51 provided in section eleven of the general municipal law. Any interest
 52 earned or capital gain realized on the moneys so deposited or invested
 53 shall accrue to and become part of such fund.

54 2. The treasurer shall retain such amount as such treasurer may deter-
 55 mine to be necessary for refunds with respect to the tax imposed by the
 56 town, under the authority of section fourteen hundred forty-nine-

bbbbbbbbb of this article, out of which the treasurer shall pay any refunds of such taxes to those taxpayers entitled to a refund pursuant to the provisions of this article.

3. The treasurer, after reserving such refunds, shall on or before the twelfth day of each month pay to the town supervisor the taxes, penalties and interest imposed by the town under the authority of section fourteen hundred forty-nine-bbbbbbbb of this article, collected by the treasurer, pursuant to this article during the next preceding calendar month. The amount so payable shall be certified to the town supervisor by the treasurer, who shall not be held liable for any inaccuracy in such certification. Provided, however, any such certification may be based on such information as may be available to the treasurer at the time such certification must be made under this section. Where the amount so paid over to the town in any such distribution is more or less than the amount due to the town, the amount of the overpayment or underpayment shall be certified to the town supervisor by the treasurer, who shall not be held liable for any inaccuracy in such certification. The amount of the overpayment or underpayment shall be so certified to the town supervisor as soon after the discovery of the overpayment or underpayment as reasonably possible and subsequent payments and distributions by the treasurer to the town shall be adjusted by subtracting the amount of any such overpayment from or by adding the amount of any such underpayment to such number of subsequent payments and distributions as the treasurer and town supervisor shall consider reasonable in view of the overpayment or underpayment and all other facts and circumstances.

4. All monies received from the treasurer shall be deposited in the fund of the town, pursuant to section sixty-four-1 of the town law.

§ 1449-llllllll. Judicial review. 1. Any final determination of the amount of any tax payable under section fourteen hundred forty-nine-ccccccc of this article shall be reviewable for error, illegality or unconstitutionality or any other reason whatsoever by a proceeding under article seventy-eight of the civil practice law and rules if application therefor is made to the supreme court within four months after the giving of the notice of such final determination, provided, however, that any such proceeding under article seventy-eight of the civil practice law and rules shall not be instituted unless (a) the amount of any tax sought to be reviewed, with such interest and penalties thereon as may be provided for by local law shall be first deposited and there is filed an undertaking, issued by a surety company authorized to transact business in this state and approved by the state superintendent of financial services as to solvency and responsibility, in such amount as a justice of the supreme court shall approve to the effect that if such proceeding be dismissed or the tax confirmed the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding or (b) at the option of the petitioner, such undertaking may be in a sum sufficient to cover the taxes, interest and penalties stated in such determination, plus the costs and charges which may accrue against it in the prosecution of the proceeding, in which event the petitioner shall not be required to pay such taxes, interest or penalties as a condition precedent to the application.

2. Where any tax imposed hereunder shall have been erroneously, illegally or unconstitutionally assessed or collected and application for the refund or revision thereof duly made to the proper fiscal officer or officers, and such officer or officers shall have made a determination denying such refund or revision, such determination shall be reviewable by a proceeding under article seventy-eight of the civil practice law

1 and be incapable of holding any public office in this state for a period
2 of five years thereafter.

3 § 1449-pppppppp. Foreclosure proceedings. Where the conveyance
4 consists of a transfer of property made as a result of an order of the
5 court in a foreclosure proceeding ordering the sale of such property,
6 the referee or sheriff effectuating such transfer shall not be liable
7 for any interest or penalties that are authorized pursuant to this arti-
8 cle or article thirty-seven of this chapter.

9 § 4. This act shall take effect immediately.