STATE OF NEW YORK

9823

IN SENATE

April 7, 2026

Introduced by Sen. GIANARIS -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law, in relation to enabling any city having a population of one million or more to impose and collect taxes on vacant ground floor commercial premises

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

Section 1. The tax law is amended by adding a new section 1201-f to read as follows:

§ 1201-f. Commercial vacancy tax. (a) Notwithstanding any other provision of law to the contrary, any city having a population of one million or more is hereby authorized and empowered to adopt and amend local laws imposing in any such city a tax such as the legislature has or would have the power and authority to impose on any ground floor commercial premises that have been vacant for a period of not less than six months. The tax on such vacant ground floor commercial premises shall be measured as determined and calculated in accordance with a formula or formulas set forth in any such local law, provided that any such tax shall not exceed two thousand dollars per square foot annually. Any such local law may impose such tax at different rates in different geographical areas of any such city. Such tax shall be imposed on the owner of such premises.

(b) Any such local law shall define the meaning of the term vacancy, provided that ground floor commercial premises that are not occupied by a tenant, but for which construction documents for the alteration or renovation of such premises have been filed with the department of buildings of any such city, or are located in real property for which construction documents for the alteration or renovation of such real property have been filed with the department of buildings of any such city, which alteration or renovation would render such premises uninhabitable, shall be deemed not to be vacant until the earlier of: (1) one year from the filing of such construction documents; or (2) one month following the completion of such alteration or renovation. Any such

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

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<u>local law shall define any other terms necessary for the imposition, administration, collection and enforcement of such tax.</u>

<u>(c) Any such local law may provide for exclusions or exemptions from such tax other than those specified in this section.</u>

<u>(d) Any such local law may provide for the filing of returns and the payment of the tax on a monthly basis or on the basis of any longer or shorter period of time.</u>

<u>(e) For purposes of measuring the applicable period of vacancy, a vacancy shall not be deemed to have begun until at least thirty days following the date by which an owner of ground floor commercial premises was first required to register such premises with the applicable agency of such city in accordance with a local law establishing a vacancy registration requirement.</u>

<u>(f) Such tax may be imposed, administered, collected and enforced by the commissioner of finance of such city by such means and in such manner as other taxes that are now imposed, administered, collected and enforced by such commissioner in accordance with the charter or administrative code of any such city or as otherwise may be provided by any such local law.</u>

<u>(g) Any final determination of the amount of any tax payable hereunder 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 by a taxpayer unless: (1) the amount of any tax sought to be reviewed, with such interest and penalties thereon as may be provided for by local law or regulation, 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 superintendent of financial services of this state 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 taxpayer will pay all costs and charges which may accrue in the prosecution of such proceeding; or (2) at the option of the taxpayer 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 such taxpayer in the prosecution of the proceeding, in which event the taxpayer shall not be required to pay such taxes, interest or penalties as a condition precedent to the application.</u>

<u>(h) Where any tax imposed hereunder shall have been erroneously, illegally or unconstitutionally collected and application for the refund thereof duly made to the proper fiscal officer or officers, and such officer or officers or, in the case of a city of one million or more which has established a tax appeals tribunal, such tax appeals tribunal, shall have made a determination denying such refund, such determination shall be reviewable by a proceeding under article seventy-eight of the civil practice law and rules, provided, however, that such proceeding is instituted within four months after the giving of the notice of such denial, that a final determination of tax due was not previously made, and that an undertaking is filed with the proper fiscal officer or officers in such amount and with such sureties as a justice of the supreme court shall approve to the effect that if such proceeding be dismissed or the tax confirmed, the taxpayer will pay all costs and charges which may accrue in the prosecution of such proceeding.</u>

(i) Except in the case of a willfully false or fraudulent return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three years from the date of the filing of a return, provided, however, that where no return has been filed as provided by law the tax may be assessed at any time.

(j) Revenues resulting from the imposition of tax authorized by this section shall be paid into the treasury of any such city and shall be credited to and deposited in the general fund of any such city.

(k) If any provision of this section or the application thereof to any person or circumstance shall be held invalid, the remainder of this section and the application of such provision to other persons or circumstances shall not be affected thereby.

§ 2. This act shall take effect thirty days after the commissioner of finance for a city with a population of one million or more submits a report required by a local law establishing a vacancy registration requirement to the mayor, the speaker of the council and the comptroller of such city. Such commissioner of finance shall notify the legislative bill drafting commission upon the submission of such report in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.