STATE OF NEW YORK

8571

2009-2010 Regular Sessions

IN ASSEMBLY

May 28, 2009

Introduced by M. of A. HOYT -- (at request of the Governor) -- read once and referred to the Committee on Local Governments

AN ACT to amend the general municipal law and the environmental conservation law, in relation to authorizing towns and cities to establish community preservation funds; and to amend the tax law, in relation to authorizing towns and cities which establish such a fund to impose a tax on real estate transfers

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The general municipal law is amended by adding a new section 6-t to read as follows:

S 6-T. COMMUNITY PRESERVATION FUNDS IN TOWNS AND CITIES. 1. AS USED IN THIS SECTION, THE FOLLOWING WORDS AND TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "COMMUNITY PRESERVATION" MEANS AND INCLUDES ANY OF THE PURPOSES OUTLINED IN SUBDIVISION FOUR OF THIS SECTION.

(B) "COMMUNITY PRESERVATION FUND" OR "FUND" MEANS A COMMUNITY PRESERVATION FUND ESTABLISHED PURSUANT TO SUBDIVISION TWO OF THIS SECTION.

(C) "COMMUNITY PRESERVATION PROJECT PLAN" OR "PLAN" MEANS A COMMUNITY PRESERVATION PROJECT PLAN ESTABLISHED PURSUANT TO SUBDIVISION SIX OF THIS SECTION.

(D) "DESIGNATED COMMUNITY" MEANS ANY TOWN OR CITY IN THE STATE WHICH SEEKS TO ESTABLISH OR HAS ESTABLISHED A COMMUNITY PRESERVATION FUND PURSUANT TO THIS SECTION.

(E) "TAX" MEANS A REAL ESTATE TRANSFER TAX PAYABLE ON A REAL PROPERTY CONVEYANCE PURSUANT TO ARTICLE THIRTY-C OF THE TAX LAW, UNLESS THE CONTEXT CLEARLY INDICATES A DIFFERENT MEANING.

2. THE GOVERNING BODY OF ANY DESIGNATED COMMUNITY IS AUTHORIZED TO ESTABLISH BY LOCAL LAW A COMMUNITY PRESERVATION FUND FOR THE DESIGNATED COMMUNITY PURSUANT TO THE PROVISIONS OF THIS SECTION. DEPOSITS INTO THE FUND MAY INCLUDE REVENUES OF THE LOCAL GOVERNMENT FROM LAWFULLY AVAIL-

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

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ABLE SOURCES APPROVED BY THE GOVERNING BODY AND SHALL INCLUDE, AT A MINIMUM, ALL REVENUES FROM THE TAX IMPOSED UPON THE TRANSFER OF REAL PROPERTY INTERESTS IN SUCH DESIGNATED COMMUNITY PURSUANT TO ARTICLE THIRTY-C OF THE TAX LAW. THE FUND SHALL ALSO BE AUTHORIZED TO ACCEPT GIFTS OF MONEY OR INTERESTS IN LAND. INTEREST ACCRUED BY MONEYS DEPOSITED INTO THE FUND SHALL BE CREDITED TO THE FUND. IN NO EVENT SHALL MONEYS DEPOSITED IN THE FUND BE TRANSFERRED TO ANY OTHER ACCOUNT OR USED FOR ANY PURPOSE OTHER THAN AUTHORIZED BY THIS SECTION. NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED TO PREVENT THE FINANCING IN WHOLE OR IN PART, PURSUANT TO THE LOCAL FINANCE LAW, OF ANY ACQUISITION AUTHORIZED PURSUANT TO THIS SECTION. MONEYS FROM THE FUND MAY BE UTILIZED TO REPAY ANY INDEBTEDNESS OR OBLIGATIONS INCURRED PURSUANT TO THE LOCAL FINANCE LAW CONSISTENT WITH EFFECTUATING THE PURPOSES OF THIS SECTION.

3. MONEYS IN THE FUND SHALL BE USED EXCLUSIVELY TO: (A) IMPLEMENT A COMMUNITY PRESERVATION PROJECT PLAN IN ACCORDANCE WITH SUBDIVISION SIX OF THIS SECTION; (B) ACQUIRE INTERESTS OR RIGHTS IN REAL PROPERTY FOR THE PRESERVATION OF COMMUNITY CHARACTER WITHIN THE DESIGNATED COMMUNITY IN ACCORDANCE WITH THE COMMUNITY PRESERVATION PROJECT PLAN AND IN COOPERATION WITH WILLING SELLERS; (C) ESTABLISH A BANK PURSUANT TO A TRANSFER OF DEVELOPMENT RIGHTS PROGRAM CONSISTENT WITH SECTION TWO HUNDRED SIXTY-ONE-A OF THE TOWN LAW, OR SECTION TWENTY-F OF THE GENERAL CITY LAW; (D) IMPLEMENT A MANAGEMENT AND STEWARDSHIP PROGRAM FOR THE REAL PROPERTY INTERESTS AND RIGHTS ACQUIRED CONSISTENT WITH SUBDIVISION NINE OF THIS SECTION AND IN ACCORDANCE WITH THE COMMUNITY PRESERVATION PROJECT PLAN, PROVIDED THAT NOT MORE THAN TEN PERCENT OF THE FUND SHALL BE UTILIZED FOR A MANAGEMENT AND STEWARDSHIP PROGRAM; AND (E) MAKE PAYMENTS TO SCHOOL, FIRE, FIRE PROTECTION AND AMBULANCE DISTRICTS IN CONNECTION WITH LANDS WITHIN THE DESIGNATED COMMUNITY THAT ARE OWNED BY ANY MUNICIPAL CORPORATION. PAYMENTS MAY ONLY BE MADE TO A DISTRICT WHERE MORE THAN TWENTY-FIVE PERCENT OF THE ASSESSED VALUE OF THAT DISTRICT IS WHOLLY EXEMPT FROM REAL PROPERTY TAXATION PURSUANT TO THE REAL PROPERTY TAX LAW BECAUSE IT IS OWNED BY A MUNICIPAL CORPORATION. NOT MORE THAN TEN PERCENT OF THE FUND MAY BE USED FOR THIS PURPOSE IN ANY FISCAL YEAR. PAYMENTS FROM THE FUND FOR THIS PURPOSE SHALL NOT EXCEED THE ACTUAL TAX LIABILITY THAT WOULD HAVE BEEN DUE IF THE LANDS OF A MUNICIPAL CORPORATION HAD BEEN SUBJECT TO REAL PROPERTY TAXATION. WHERE MORE THAN ONE DISTRICT IS ELIGIBLE FOR A PAYMENT UNDER THIS SUBDIVISION, AND THE PAYMENT AVAILABLE FROM THE FUND IS LESS THAN THE ACTUAL TAX LIABILITY THAT WOULD HAVE BEEN DUE IF THE LANDS OF A MUNICIPAL CORPORATION HAD BEEN SUBJECT TO REAL PROPERTY TAXATION, THE DESIGNATED COMMUNITY SHALL APPORTION THE ANNUAL PAYMENT ON THE BASIS OF THE TOTAL TAX LEVIED BY EACH DISTRICT WITHIN THE DESIGNATED COMMUNITY FOR THE YEAR THE PAYMENT IS MADE. PAYMENT FROM THE FUND SHALL BE USED SOLELY TO REDUCE THE PROPERTY TAX LIABILITY OF THE REMAINING TAXPAYERS OF THE DISTRICT WITHIN THE DESIGNATED COMMUNITY. IF THE IMPLEMENTATION OF THE COMMUNITY PRESERVATION PROJECT PLAN ADOPTED BY A GOVERNING BODY AS PROVIDED IN SUBDIVISION SIX OF THIS SECTION HAS BEEN COMPLETED, AND MONEYS ARE NO LONGER NEEDED FOR THE PURPOSES OUTLINED IN THIS SUBDIVISION, THEN ANY REMAINING MONIES IN THE FUND MAY BE HELD IN THE FUND FOR PURPOSES OF IMPLEMENTING A FUTURE COMMUNITY PRESERVATION PROJECT PLAN OR MAY BE APPLIED TO REDUCE ANY BONDED INDEBTEDNESS OR OBLIGATIONS INCURRED TO EFFECTUATE THE PURPOSES OF THIS SECTION.

4. PRESERVATION OF COMMUNITY CHARACTER SHALL INVOLVE ONE OR MORE OF THE FOLLOWING: (A) ESTABLISHMENT OF PARKS, NATURE PRESERVES, NATURE TRAILS, RECREATION AREAS, COMMUNITY GARDENS AS DEFINED IN SUBDIVISION ONE OF SECTION THIRTY-ONE-G OF THE AGRICULTURE AND MARKETS LAW, OR

COMMUNITY FORESTS AS DEFINED IN SUBDIVISION TEN OF SECTION 9-0101 OF THE ENVIRONMENTAL CONSERVATION LAW; (B) PRESERVATION OF OPEN SPACE; (C) PRESERVATION OF LANDS OF EXCEPTIONAL SCENIC VALUE; (D) PRESERVATION OF FRESH AND SALTWATER MARSHES OR OTHER WETLANDS; (E) PRESERVATION OF AQUIFER RECHARGE AREAS; (F) PRESERVATION OF UNDEVELOPED BEACHLANDS OR SHORELINE; (G) ESTABLISHMENT OF WILDLIFE REFUGES FOR THE PURPOSE OF MAINTAINING NATIVE ANIMAL SPECIES DIVERSITY, INCLUDING THE PROTECTION OF HABITAT ESSENTIAL TO THE RECOVERY AND MAINTENANCE OF RARE, THREATENED OR ENDANGERED SPECIES; (H) PRESERVATION OF UNIQUE OR THREATENED ECOLOGICAL AREAS; (I) PRESERVATION OF RIVERS AND RIVER AREAS IN A NATURAL, FREE-FLOWING CONDITION; (J) PRESERVATION OF FORESTED LAND; (K) PRESERVATION OF PUBLIC ACCESS TO LANDS FOR PUBLIC USE INCLUDING STREAM RIGHTS AND WATERWAYS; (L) PRESERVATION OF HISTORIC PLACES AND PROPERTIES LISTED ON THE NEW YORK STATE REGISTER OF HISTORIC PLACES OR PROTECTED UNDER A MUNICIPAL HISTORIC PRESERVATION ORDINANCE OR LAW; (M) UNDERTAKING ANY OF THE ACTIVITIES LISTED IN THIS SUBDIVISION IN FURTHERANCE OF THE ESTABLISHMENT OF A GREENBELT; (N) PRESERVATION OF LAND WHICH IS PREDOMINANTLY VIABLE AGRICULTURAL LAND, AS DEFINED IN SUBDIVISION SEVEN OF SECTION THREE HUNDRED ONE OF THE AGRICULTURE AND MARKETS LAW, OR UNIQUE AND IRREPLACEABLE AGRICULTURAL LAND, AS DEFINED IN SUBDIVISION SIX OF SECTION THREE HUNDRED ONE OF THE AGRICULTURE AND MARKETS LAW; AND (O) PRESERVATION OF LITTORAL AND RIPARIAN AREAS.

5. THE GOVERNING BODY OF ANY DESIGNATED COMMUNITY WHICH HAS ESTABLISHED A COMMUNITY PRESERVATION FUND SHALL ALSO ESTABLISH AN ADVISORY BOARD TO REVIEW AND MAKE RECOMMENDATIONS TO THE GOVERNING BODY ON PROPOSED ACQUISITIONS OF INTERESTS IN REAL PROPERTY USING MONEYS FROM THE FUND AND ASSIST IN THE DEVELOPMENT OF THE COMMUNITY PRESERVATION PLAN. THE GOVERNING BODY MAY: (A) DESIGNATE AN APPROPRIATE EXISTING BOARD OR BODY, OTHER THAN THE GOVERNING BODY ITSELF, SUCH AS A CONSERVATION ADVISORY COUNCIL OR THE LOCAL PLANNING BOARD, TO SERVE AS THE ADVISORY BOARD; OR (B) CREATE A SEPARATE BOARD TO SERVE AS AN ADVISORY BOARD. IF A SEPARATE ADVISORY BOARD IS CREATED, THE FOLLOWING REQUIREMENTS SHALL BE OBSERVED: (A) THE ADVISORY BOARD SHALL CONSIST OF EITHER FIVE OR SEVEN LEGAL RESIDENTS OF THE DESIGNATED COMMUNITY WHO SHALL SERVE WITHOUT COMPENSATION; (B) A MAJORITY OF THE MEMBERS OF THE ADVISORY BOARD SHALL HAVE DEMONSTRATED EXPERIENCE WITH CONSERVATION OR LAND PRESERVATION ACTIVITIES; (C) NO MEMBER OF THE ADVISORY BOARD SHALL ALSO BE A MEMBER OF THE GOVERNING BODY; (D) WHERE A PLAN IS LIKELY TO INCLUDE THE PRESERVATION OF AGRICULTURAL LAND, THE GOVERNING BODY SHALL GIVE DUE CONSIDERATION TO APPOINTING AT LEAST ONE RESIDENT TO THE ADVISORY BOARD WHO IS EITHER (I) AN ACTIVE FARMER, OR (II) WHERE THE DESIGNATED COMMUNITY IS IN A COUNTY THAT HAS AN AGRICULTURAL AND FARMLAND PROTECTION BOARD ESTABLISHED PURSUANT TO SECTION THREE HUNDRED TWO OF THE AGRICULTURE AND MARKETS LAW, A MEMBER OF SUCH BOARD; (E) THE TERMS OF MEMBERS OF THE ADVISORY BOARD FIRST APPOINTED SHALL BE SO FIXED THAT THE TERM OF ONE MEMBER SHALL EXPIRE AT THE END OF THE OFFICIAL YEAR IN WHICH SUCH MEMBERS WERE INITIALLY APPOINTED, THE TERMS OF THE REMAINING MEMBERS FIRST APPOINTED SHALL BE SO FIXED THAT THE TERM OF AT LEAST ONE MEMBER SHALL EXPIRE AT THE END OF EACH OFFICIAL YEAR THEREAFTER, AND AT THE EXPIRATION OF THE TERM OF EACH MEMBER FIRST APPOINTED, HIS OR HER SUCCESSOR SHALL BE APPOINTED FOR A TERM OF FOUR YEARS; AND (F) ANY MEMBER OF THE ADVISORY BOARD MAY BE REMOVED AT THE PLEASURE OF THE GOVERNING BODY, AND ANY VACANCY SHALL BE FILLED IN THE SAME MANNER AS THE APPOINTMENT WAS MADE.

6. THE GOVERNING BODY OF ANY DESIGNATED COMMUNITY WHICH HAS ESTABLISHED A COMMUNITY PRESERVATION FUND SHALL, BY LOCAL LAW, ADOPT A COMMU-

NITY PRESERVATION PROJECT PLAN. THE PLAN MAY BE MADE A PART OF THE DESIGNATED COMMUNITY'S COMPREHENSIVE PLAN. THE PLAN SHALL LIST EVERY PROJECT WHICH THE DESIGNATED COMMUNITY PLANS TO UNDERTAKE WITH MONEYS FROM THE FUND. IT SHALL INCLUDE EVERY PARCEL WHICH IS NECESSARY TO BE ACQUIRED IN THE DESIGNATED COMMUNITY TO PROTECT COMMUNITY CHARACTER. THE PLAN SHALL PROVIDE FOR A DETAILED EVALUATION OF ALL AVAILABLE LAND USE ALTERNATIVES TO PROTECT COMMUNITY CHARACTER, INCLUDING BUT NOT LIMITED TO: (A) FEE SIMPLE ACQUISITION; (B) ZONING REGULATIONS, INCLUDING DENSITY REDUCTIONS, CLUSTER DEVELOPMENT, AND SITE PLAN AND DESIGN REQUIREMENTS; (C) TRANSFER OF DEVELOPMENT RIGHTS; (D) PURCHASE OF DEVELOPMENT RIGHTS; AND (E) SCENIC AND CONSERVATION EASEMENTS. THE EVALUATION SHALL BE AS SPECIFIC AS PRACTICABLE AS TO EACH PARCEL SELECTED FOR INCLUSION IN THE PLAN. THE PLAN SHALL ESTABLISH PRIORITIES FOR PRESERVATION. MONEYS FROM THE FUND MAY ONLY BE EXPENDED FOR PROJECTS LISTED IN THE PLAN. THE PLAN SHALL BE UPDATED NOT LESS THAN ONCE EVERY FIVE YEARS. A COPY OF THE ADOPTED PLAN SHALL BE FILED WITH THE CLERK OF THE DESIGNATED COMMUNITY AT LEAST SIXTY DAYS BEFORE THE SUBMISSION OF THE MANDATORY REFERENDUM REQUIRED BY SECTION THIRTEEN HUNDRED EIGHTY-SIX OF THE TAX LAW AND SHALL BE MADE AVAILABLE FOR PUBLIC REVIEW AT THE DESIGNATED COMMUNITY CLERK'S OFFICE, AT ANY PUBLIC LIBRARIES WITHIN THE DESIGNATED COMMUNITY, AND, WHERE PRACTICABLE, POSTED ON THE DESIGNATED COMMUNITY'S WEBSITE.

7. THE GOVERNING BODY OF ANY DESIGNATED COMMUNITY WHICH HAS ESTABLISHED A FUND PURSUANT TO THIS SECTION MAY ESTABLISH A TRANSFER OF DEVELOPMENT RIGHTS PROGRAM TO PROTECT COMMUNITY CHARACTER IN COMPLIANCE WITH SECTION TWO HUNDRED SIXTY-ONE-A OF THE TOWN LAW OR SECTION TWENTY-F OF THE GENERAL CITY LAW AS APPLICABLE. IF AT ANY TIME DURING THE LIFE OF THE FUND A TRANSFER OF DEVELOPMENT RIGHTS PROGRAM IS ESTABLISHED, THE DESIGNATED COMMUNITY MAY UTILIZE MONEYS FROM THE FUND FOR PURPOSES OF THE TRANSFER OF DEVELOPMENT RIGHTS PROGRAM. IF AT ANY TIME DURING THE LIFE OF THE FUND, A TRANSFER OF DEVELOPMENT RIGHTS PROGRAM IS REPEALED BY THE DESIGNATED COMMUNITY, ALL MONEYS FROM THE CENTRAL BANK SHALL BE RETURNED TO THE FUND.

8. NO INTERESTS OR RIGHTS IN REAL PROPERTY SHALL BE ACQUIRED PURSUANT TO THIS SECTION UNTIL A PUBLIC HEARING IS HELD AS REQUIRED BY SECTION TWO HUNDRED FORTY-SEVEN OF THIS CHAPTER; PROVIDED, HOWEVER, THAT NOTHING IN THIS SECTION SHALL PREVENT THE GOVERNING BODY FROM ENTERING INTO A CONDITIONAL PURCHASE AGREEMENT BEFORE A PUBLIC HEARING IS HELD. ANY RESOLUTION OF A GOVERNING BODY APPROVING AN ACQUISITION OF INTERESTS OR RIGHTS IN REAL PROPERTY PURSUANT TO THIS SECTION SHALL FIND THAT ACQUISITION WAS THE BEST ALTERNATIVE FOR THE PROTECTION OF COMMUNITY CHARACTER OF ALL THE REASONABLE ALTERNATIVES AVAILABLE TO THE DESIGNATED COMMUNITY.

9. RIGHTS OR INTERESTS IN REAL PROPERTY ACQUIRED PURSUANT TO THIS SECTION SHALL BE ADMINISTERED AND MANAGED IN A MANNER WHICH: (A) ALLOWS PUBLIC USE AND ENJOYMENT IN A MANNER COMPATIBLE WITH THE NATURAL, SCENIC, HISTORIC AND OPEN SPACE CHARACTER OF THE LANDS; (B) PRESERVES THE NATIVE BIOLOGICAL DIVERSITY OF THE LANDS TO THE EXTENT PRACTICABLE; (C) WITH REGARD TO OPEN SPACES, LIMITS IMPROVEMENTS TO ENHANCING ACCESS FOR PASSIVE USE OF THE LANDS, SUCH AS NATURE TRAILS, BOARDWALKS, BICYCLE PATHS, HIKING TRAILS, SNOWSHOE TRAILS, CROSS COUNTRY SKI TRAILS, AND PERIPHERAL PARKING AREAS PROVIDED THAT THESE IMPROVEMENTS DO NOT DEGRADE THE ECOLOGICAL VALUE OF THE LAND OR THREATEN ESSENTIAL WILDLIFE HABITAT; AND (D) PRESERVES CULTURAL PROPERTY CONSISTENT WITH ACCEPTED STANDARDS FOR HISTORIC PRESERVATION. IN FURTHERING THE PURPOSES OF THIS SECTION, THE DESIGNATED COMMUNITY MAY ENTER INTO AGREEMENTS WITH NOT-FOR-PROFIT

CORPORATIONS AND ENGAGE IN LAND TRUST ACTIVITIES TO MANAGE LANDS INCLUDING LESS THAN FEE INTERESTS ACQUIRED PURSUANT TO THE PROVISIONS OF THIS SECTION, PROVIDED THAT ANY AGREEMENT SHALL CONTAIN A PROVISION THAT THE CORPORATION KEEP THE LANDS ACCESSIBLE TO THE PUBLIC UNLESS THE CORPORATION DEMONSTRATES TO THE SATISFACTION OF THE GOVERNING BODY THAT PUBLIC ACCESSIBILITY WOULD BE DETRIMENTAL TO THE LANDS OR ANY OF THE NATURAL RESOURCES ASSOCIATED WITH THE LANDS. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBDIVISION, THERE SHALL BE NO RIGHT TO PUBLIC USE AND ENJOYMENT OF LAND USED IN CONJUNCTION WITH A FARM OPERATION AS DEFINED BY SUBDIVISION ELEVEN OF SECTION THREE HUNDRED ONE OF THE AGRICULTURE AND MARKETS LAW UNLESS THE OWNER OR OPERATOR OF THE FARM OPERATION PERMITS PUBLIC USE, IN WRITING.

10. RIGHTS OR INTERESTS IN REAL PROPERTY ACQUIRED WITH MONEYS FROM THE FUND SHALL NOT BE USED FOR PURPOSES OTHER THAN THOSE PERMITTED BY THIS SECTION, OR BE SOLD, LEASED, EXCHANGED, DONATED OR OTHERWISE DISPOSED OF TO ANYONE OTHER THAN THE STATE, A MUNICIPALITY OR A NOT-FOR-PROFIT CORPORATION WHERE THE PROPERTY WILL CONTINUE TO BE USED FOR A QUALIFYING PURPOSE CONSISTENT WITH PRESERVING COMMUNITY CHARACTER OF THE DESIGNATED COMMUNITY AND PURSUANT TO THE COMMUNITY PRESERVATION PROJECT PLAN ADOPTED BY THE DESIGNATED COMMUNITY, WITHOUT THE EXPRESS AUTHORITY OF AN ACT OF THE STATE LEGISLATURE. ANY CONSERVATION EASEMENTS CREATED UNDER TITLE THREE OF ARTICLE FORTY-NINE OF THE ENVIRONMENTAL CONSERVATION LAW WHICH ARE ACQUIRED WITH MONEYS FROM THE FUND, MAY ONLY BE MODIFIED OR EXTINGUISHED AS PROVIDED BY SECTION 49-0307 OF THE ENVIRONMENTAL CONSERVATION LAW. NOTHING IN THIS SECTION SHALL PRECLUDE A DESIGNATED COMMUNITY, BY LOCAL LAW, FROM ESTABLISHING ADDITIONAL RESTRICTIONS TO THE ALIENATION OF LANDS ACQUIRED PURSUANT TO THIS SECTION. THIS SUBDIVISION SHALL NOT APPLY TO THE SALE OF DEVELOPMENT RIGHTS BY A DESIGNATED COMMUNITY ACQUIRED PURSUANT TO THIS SECTION, WHERE THE SALE IS MADE BY A DEVELOPMENT RIGHTS BANK CREATED BY A DESIGNATED COMMUNITY, PURSUANT TO A TRANSFER OF DEVELOPMENT RIGHTS PROGRAM ESTABLISHED BY A DESIGNATED COMMUNITY PURSUANT TO SECTION TWO HUNDRED SIXTY-ONE-A OF THE TOWN LAW OR SECTION TWENTY-F OF THE GENERAL CITY LAW, PROVIDED, HOWEVER THAT: (A) THE LANDS FROM WHICH THE DEVELOPMENT RIGHTS WERE ACQUIRED SHALL REMAIN PRESERVED IN PERPETUITY BY A PERMANENT CONSERVATION EASEMENT OR OTHER INSTRUMENT THAT SIMILARLY PRESERVES THE COMMUNITY CHARACTER CONSISTENT WITH SUBDIVISION FOUR OF THIS SECTION; AND (B) THE PROCEEDS FROM THE SALE SHALL BE DEPOSITED IN THE FUND.

11. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO SUPERSEDE, AFFECT, IMPAIR OR INVALIDATE THE PROVISIONS OF SECTION SIXTY-FOUR-E, SIXTY-FOUR-F, SIXTY-FOUR-G, SIXTY-FOUR-H, SIXTY-FOUR-I (RELATING TO THE TOWN OF CHATHAM PRESERVATION FUNDS) OR SIXTY-FOUR-I (RELATING TO THE TOWN OF FISHKILL PRESERVATION FUNDS) OF THE TOWN LAW, OR SECTION SIX-S OF THIS ARTICLE; PROVIDED HOWEVER THAT A DESIGNATED COMMUNITY MAY ONLY ESTABLISH ONE REAL ESTATE TRANSFER TAX FOR THE PURPOSE OF COMMUNITY PRESERVATION; NOR SHALL ANY TOWN OR CITY IMPOSE A TAX PURSUANT TO ARTICLE THIRTY-C OF THE TAX LAW IF A TOWN OR CITY HAS IMPOSED A REAL ESTATE TRANSFER TAX FOR THE PURPOSE OF ESTABLISHING A COMMUNITY PRESERVATION FUND PURSUANT TO ANY OF THESE LAWS AND IT WOULD RESULT IN THE IMPOSITION OF MORE THAN ONE REAL ESTATE TRANSFER TAX FOR THIS PURPOSE ON THE SAME REAL PROPERTY CONVEYANCE.

S 2. Section 9-0101 of the environmental conservation law is amended by adding a new subdivision 10 to read as follows:

10. "COMMUNITY FOREST" MEANS FOREST LAND, OR AN INTEREST IN FOREST LAND, OWNED AND MANAGED BY A MUNICIPALITY FOR THE BENEFIT OF ITS RESIDENTS.

S 3. The tax law is amended by adding a new article 30-C to read as follows:

ARTICLE 30-C
TAX ON REAL ESTATE TRANSFERS IN TOWNS AND CITIES

S 1385. DEFINITIONS. WHEN USED IN THIS ARTICLE, UNLESS OTHERWISE EXPRESSLY STATED, THE FOLLOWING WORDS AND TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "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.

(B) "CONTROLLING INTEREST" MEANS (1) IN THE CASE OF A CORPORATION, EITHER FIFTY PERCENT OR MORE OF THE TOTAL COMBINED VOTING POWER OF ALL CLASSES OF STOCK OF THE CORPORATION, OR FIFTY PERCENT OR MORE OF THE CAPITAL, PROFITS OR BENEFICIAL INTEREST IN THE VOTING STOCK OF THE CORPORATION, AND (2) IN THE CASE OF A PARTNERSHIP, ASSOCIATION, TRUST OR OTHER ENTITY, FIFTY PERCENT OR MORE OF THE CAPITAL, PROFITS OR BENEFICIAL INTEREST IN THE PARTNERSHIP, ASSOCIATION, TRUST OR OTHER ENTITY.

(C) "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 ANY DESIGNATED COMMUNITY. IT SHALL NOT INCLUDE RIGHTS TO SEPULTURE.

(D) "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 IN THE DEED AND WHETHER PAID OR REQUIRED TO BE PAID BY MONEY, PROPERTY, OR ANY OTHER THING OF VALUE. IT SHALL INCLUDE THE CANCELLATION OR DISCHARGE OF AN INDEBTEDNESS OR OBLIGATION. IT SHALL ALSO INCLUDE THE AMOUNT OF ANY MORTGAGE, PURCHASE MONEY MORTGAGE, LIEN OR OTHER ENCUMBRANCE, WHETHER OR NOT THE UNDERLYING INDEBTEDNESS IS ASSUMED OR TAKEN SUBJECT TO.

(1) IN THE CASE OF A CREATION OF A LEASEHOLD INTEREST OR THE GRANTING OF AN OPTION WITH USE AND OCCUPANCY OF REAL PROPERTY, CONSIDERATION SHALL INCLUDE, BUT NOT BE LIMITED TO, THE VALUE OF THE RENTAL AND OTHER PAYMENTS ATTRIBUTABLE TO THE USE AND OCCUPANCY OF THE REAL PROPERTY OR INTEREST THEREIN, THE VALUE OF ANY AMOUNT PAID FOR AN OPTION TO PURCHASE OR RENEW AND THE VALUE OF RENTAL OR OTHER PAYMENTS ATTRIBUTABLE TO THE EXERCISE OF ANY OPTION TO RENEW.

(2) IN THE CASE OF A CREATION OF A SUBLEASEHOLD INTEREST, CONSIDERATION SHALL INCLUDE, BUT NOT BE LIMITED TO, THE VALUE OF THE SUBLEASE RENTAL PAYMENTS ATTRIBUTABLE TO THE USE AND OCCUPANCY OF THE REAL PROPERTY, THE VALUE OF ANY AMOUNT PAID FOR AN OPTION TO RENEW AND THE VALUE OF RENTAL OR OTHER PAYMENTS ATTRIBUTABLE TO THE EXERCISE OF ANY OPTION TO RENEW LESS THE VALUE OF THE REMAINING PRIME LEASE RENTAL PAYMENTS REQUIRED TO BE MADE.

(3) IN THE CASE OF A CONTROLLING INTEREST IN ANY ENTITY THAT OWNS REAL PROPERTY, CONSIDERATION SHALL MEAN THE FAIR MARKET VALUE OF THE REAL PROPERTY OR INTEREST THEREIN, APPORTIONED BASED ON THE PERCENTAGE OF THE OWNERSHIP INTEREST TRANSFERRED OR ACQUIRED IN THE ENTITY.

(4) IN THE CASE OF AN ASSIGNMENT OR SURRENDER OF A LEASEHOLD INTEREST OR THE ASSIGNMENT OR SURRENDER OF AN OPTION OR CONTRACT TO PURCHASE REAL PROPERTY, CONSIDERATION SHALL NOT INCLUDE THE VALUE OF THE REMAINING RENTAL PAYMENTS REQUIRED TO BE MADE PURSUANT TO THE TERMS OF SUCH LEASE OR THE AMOUNT TO BE PAID FOR THE REAL PROPERTY PURSUANT TO THE TERMS OF THE OPTION OR CONTRACT BEING ASSIGNED OR SURRENDERED.

(5) IN THE CASE OF (A) THE ORIGINAL CONVEYANCE OF SHARES OF STOCK IN A COOPERATIVE HOUSING CORPORATION IN CONNECTION WITH THE GRANT OR TRANSFER OF A PROPRIETARY LEASEHOLD BY THE COOPERATIVE CORPORATION OR COOPERATIVE PLAN SPONSOR, AND (B) THE SUBSEQUENT CONVEYANCE BY THE OWNER THEREOF OF SUCH STOCK IN A COOPERATIVE HOUSING CORPORATION IN CONNECTION WITH THE GRANT OR TRANSFER OF A PROPRIETARY LEASEHOLD FOR A COOPERATIVE UNIT OTHER THAN AN INDIVIDUAL RESIDENTIAL UNIT, CONSIDERATION SHALL INCLUDE A PROPORTIONATE SHARE OF THE UNPAID PRINCIPAL OF ANY MORTGAGE ON THE REAL PROPERTY OF THE COOPERATIVE HOUSING CORPORATION COMPRISING THE COOPERATIVE DWELLING OR DWELLINGS. SUCH SHARE SHALL BE DETERMINED BY MULTIPLYING THE TOTAL UNPAID PRINCIPAL OF THE MORTGAGE BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE NUMBER OF SHARES OF STOCK BEING CONVEYED IN THE COOPERATIVE HOUSING CORPORATION IN CONNECTION WITH THE GRANT OR TRANSFER OF A PROPRIETARY LEASEHOLD AND THE DENOMINATOR OF WHICH SHALL BE THE TOTAL NUMBER OF SHARES OF STOCK IN THE COOPERATIVE HOUSING CORPORATION.

(E) "CONVEYANCE" MEANS THE TRANSFER OR TRANSFERS OF ANY INTEREST IN REAL PROPERTY BY ANY METHOD, INCLUDING BUT NOT LIMITED TO, SALE, EXCHANGE, ASSIGNMENT, SURRENDER, MORTGAGE FORECLOSURE, TRANSFER IN LIEU OF FORECLOSURE, OPTION, TRUST INDENTURE, TAKING BY EMINENT DOMAIN, CONVEYANCE UPON LIQUIDATION OR BY A RECEIVER, OR TRANSFER OR ACQUISITION OF A CONTROLLING INTEREST IN ANY ENTITY WITH AN INTEREST IN REAL PROPERTY. TRANSFER OF AN INTEREST IN REAL PROPERTY SHALL INCLUDE THE CREATION OF A LEASEHOLD OR SUBLEASE ONLY WHERE (1) THE SUM OF THE TERM OF THE LEASE OR SUBLEASE AND ANY OPTIONS FOR RENEWAL EXCEEDS FORTY-NINE YEARS, (2) SUBSTANTIAL CAPITAL IMPROVEMENTS ARE OR MAY BE MADE BY OR FOR THE BENEFIT OF THE LESSEE OR SUBLESSEE, AND (3) THE LEASE OR SUBLEASE IS FOR SUBSTANTIALLY ALL OF THE PREMISES CONSTITUTING THE REAL PROPERTY. NOTWITHSTANDING THE FOREGOING PROVISIONS OF THIS SUBSECTION, CONVEYANCE OF REAL PROPERTY SHALL NOT INCLUDE A CONVEYANCE MADE PURSUANT TO DEVISE, BEQUEST OR INHERITANCE; THE CREATION, MODIFICATION, EXTENSION, SPREADING, SEVERANCE, CONSOLIDATION, ASSIGNMENT, TRANSFER, RELEASE OR SATISFACTION OF A MORTGAGE; A MORTGAGE SUBORDINATION AGREEMENT, A MORTGAGE SEVERANCE AGREEMENT, AN INSTRUMENT GIVEN TO PERFECT OR CORRECT A RECORDED MORTGAGE; OR A RELEASE OF LIEN OF TAX PURSUANT TO THIS CHAPTER OR THE INTERNAL REVENUE CODE.

(F) "INTEREST IN THE REAL PROPERTY" INCLUDES TITLE IN FEE, A LEASEHOLD INTEREST, A BENEFICIAL INTEREST, AN ENCUMBRANCE, DEVELOPMENT RIGHTS, AIR SPACE AND AIR RIGHTS, OR ANY OTHER INTEREST WITH THE RIGHT TO USE OR

OCCUPANCY OF REAL PROPERTY OR THE RIGHT TO RECEIVE RENTS, PROFITS OR OTHER INCOME DERIVED FROM REAL PROPERTY. IT SHALL ALSO INCLUDE AN OPTION OR CONTRACT TO PURCHASE REAL PROPERTY. IT SHALL NOT INCLUDE A RIGHT OF FIRST REFUSAL TO PURCHASE REAL PROPERTY.

(G) "SELLER" MEANS THE PERSON MAKING THE CONVEYANCE OF REAL PROPERTY OR INTEREST THEREIN. WHERE THE CONVEYANCE CONSISTS OF A TRANSFER OR AN ACQUISITION OF A CONTROLLING INTEREST IN AN ENTITY WITH AN INTEREST IN REAL PROPERTY, "SELLER" MEANS THE ENTITY WITH AN INTEREST IN REAL PROPERTY OR A SHAREHOLDER OR PARTNER TRANSFERRING STOCK OR PARTNERSHIP INTEREST, RESPECTIVELY.

(H) "BUYER" MEANS THE PERSON WHO OBTAINS REAL PROPERTY OR INTEREST THEREIN AS A RESULT OF A CONVEYANCE.

(I) "COMMUNITY PRESERVATION FUND" MEANS A COMMUNITY PRESERVATION FUND ESTABLISHED PURSUANT TO SECTION SIX-T OF THE GENERAL MUNICIPAL LAW.

(J) "RECORDING OFFICER" MEANS THE COUNTY CLERK WHERE THE REAL PROPERTY IS LOCATED EXCEPT IN A COUNTY HAVING A REGISTER, WHERE IT MEANS THE REGISTER OF THE COUNTY.

(K) "DESIGNATED COMMUNITY" MEANS ANY TOWN OR CITY IN THE STATE WHICH HAS ESTABLISHED A VALID COMMUNITY PRESERVATION FUND PURSUANT TO SECTION SIX-T OF THE GENERAL MUNICIPAL LAW.

(L) "TREASURER" MEANS THE COUNTY TREASURER.

(M) "GOVERNING BODY" MEANS THE TOWN BOARD OF A TOWN, OR THE BOARD OF ALDERMEN, COMMON COUNCIL, COUNCIL OR COMMISSION OF A CITY.

(N) "RESIDENTIAL REAL PROPERTY" MEANS PROPERTY WHICH SATISFIES AT LEAST ONE OF THE FOLLOWING CONDITIONS:

(1) THE PROPERTY CLASSIFICATION CODE ASSIGNED TO THE PROPERTY ON THE LATEST FINAL ASSESSMENT ROLL, AS REPORTED ON THE TRANSFER REPORT FORM, INDICATES THAT THE PROPERTY IS A ONE, TWO OR THREE FAMILY HOME OR A RURAL RESIDENCE; OR

(2) THE TRANSFER REPORT FORM INDICATES THAT THE PROPERTY IS A ONE, TWO, OR THREE FAMILY RESIDENTIAL PROPERTY THAT HAS BEEN NEWLY CONSTRUCTED ON VACANT LAND; OR

(3) THE TRANSFER REPORT FORM INDICATES THAT THE PROPERTY IS A RESIDENTIAL CONDOMINIUM.

(O) "TAX" MEANS THE REAL ESTATE TRANSFER TAX PAYABLE ON A REAL PROPERTY CONVEYANCE PURSUANT TO SECTION THIRTEEN HUNDRED EIGHTY-SIX OF THIS ARTICLE, UNLESS THE CONTEXT CLEARLY INDICATES A DIFFERENT MEANING.

S 1386. IMPOSITION OF TAX. NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW TO THE CONTRARY, ANY DESIGNATED COMMUNITY, ACTING THROUGH ITS GOVERNING BODY, IS HEREBY AUTHORIZED AND EMPOWERED TO ADOPT A LOCAL LAW IMPOSING IN THE DESIGNATED COMMUNITY A TAX ON EACH CONVEYANCE OF REAL PROPERTY OR INTEREST WHERE THE CONSIDERATION EXCEEDS FIVE HUNDRED DOLLARS, AT A RATE OF UP TO TWO PERCENT OF THE CONSIDERATION FOR THE CONVEYANCE; THE LOCAL LAW SHALL FIX THE RATE OF THE TAX. ANY LOCAL LAW IMPOSING, REPEALING OR REIMPOSING THE TAX SHALL BE SUBJECT TO A MANDATORY REFERENDUM PURSUANT TO SECTION TWENTY-THREE OF THE MUNICIPAL HOME RULE LAW. THE LOCAL LAW SHALL ONLY BE SUBMITTED FOR THE APPROVAL OF THE ELECTORS AT A NOVEMBER GENERAL ELECTION. IN ADDITION TO THE FILINGS REQUIRED PURSUANT TO ARTICLE THREE OF THE MUNICIPAL HOME RULE LAW, THE LOCAL LAW SHALL BE FILED WITH THE STATE BOARD OF REAL PROPERTY SERVICES WITHIN TWENTY DAYS OF ITS APPROVAL BY THE ELECTORS. REVENUES FROM THE TAX SHALL BE DEPOSITED IN THE COMMUNITY PRESERVATION FUND AND MAY BE USED SOLELY FOR THE PURPOSES OF THE COMMUNITY PRESERVATION FUND. THE LOCAL LAW SHALL APPLY TO ANY CONVEYANCE OCCURRING ON OR AFTER THE FIRST DAY OF A MONTH TO BE DESIGNATED BY THE GOVERNING BODY, WHICH IS NOT LESS THAN SIXTY DAYS AFTER THE ENACTMENT OF THE LOCAL LAW, BUT SHALL NOT APPLY TO CONVEYANCES MADE ON

OR AFTER THAT DATE PURSUANT TO BINDING WRITTEN CONTRACTS ENTERED INTO PRIOR TO THAT DATE, PROVIDED THAT THE DATE OF EXECUTION OF THE CONTRACT IS CONFIRMED BY INDEPENDENT EVIDENCE SUCH AS THE RECORDING OF THE CONTRACT, PAYMENT OF A DEPOSIT OR OTHER FACTS AND CIRCUMSTANCES AS DETERMINED BY THE TREASURER.

S 1387. LIABILITY FOR TAX. (A) THE TAX AUTHORIZED TO BE IMPOSED BY THIS ARTICLE SHALL BE PAID BY THE BUYER.

(B) FOR THE PURPOSE OF THE PROPER ADMINISTRATION OF THIS ARTICLE AND TO PREVENT EVASION OF THE TAX, IT SHALL BE PRESUMED THAT ALL CONVEYANCES ARE TAXABLE. WHERE THE CONSIDERATION INCLUDES PROPERTY OTHER THAN MONEY, IT SHALL BE PRESUMED THAT THE CONSIDERATION IS THE FAIR MARKET VALUE OF THE REAL PROPERTY OR INTEREST THEREIN. THESE PRESUMPTIONS SHALL PREVAIL UNTIL THE CONTRARY IS PROVEN, AND THE BURDEN OF PROVING THE CONTRARY SHALL BE ON THE PERSON LIABLE FOR PAYMENT OF THE TAX.

S 1388. PAYMENT OF TAX. (A) THE TAX IMPOSED PURSUANT TO THIS ARTICLE SHALL BE PAID TO THE TREASURER OR THE RECORDING OFFICER ACTING AS THE AGENT OF THE TREASURER UPON DESIGNATION AS SUCH AGENT BY THE TREASURER. THE TAX SHALL BE PAID AT THE SAME TIME AS THE REAL ESTATE TRANSFER TAX IMPOSED BY ARTICLE THIRTY-ONE OF THIS CHAPTER IS REQUIRED TO BE PAID. SUCH TREASURER OR RECORDING OFFICER SHALL ENDORSE UPON EACH DEED OR INSTRUMENT EFFECTING A CONVEYANCE A RECEIPT FOR THE AMOUNT OF THE TAX PAID.

(B) A RETURN SHALL BE FILED WITH THE TREASURER OR RECORDING OFFICER FOR PURPOSES OF THE TAX AT THE SAME TIME AS A RETURN IS REQUIRED TO BE FILED FOR PURPOSES OF THE REAL ESTATE TRANSFER TAX IMPOSED BY ARTICLE THIRTY-ONE OF THIS CHAPTER. THE TREASURER SHALL PRESCRIBE THE FORM OF RETURN, THE INFORMATION WHICH IT SHALL CONTAIN, AND THE DOCUMENTATION THAT SHALL ACCOMPANY THE RETURN. THE FORM SHALL BE IDENTICAL TO THE REAL ESTATE TRANSFER TAX RETURN REQUIRED TO BE FILED PURSUANT TO SECTION FOURTEEN HUNDRED NINE OF THIS CHAPTER, EXCEPT THAT THE TREASURER SHALL ADAPT THE FORM TO REFLECT THE PROVISIONS IN THIS CHAPTER THAT ARE INCONSISTENT, DIFFERENT, OR IN ADDITION TO THE PROVISIONS OF ARTICLE THIRTY-ONE OF THIS CHAPTER. THE TAX RETURNS REQUIRED TO BE FILED PURSUANT TO THIS SECTION SHALL BE PRESERVED FOR AT LEAST THREE YEARS.

(C) THE RECORDING OFFICER SHALL NOT RECORD AN INSTRUMENT EFFECTING A CONVEYANCE UNLESS THE RETURN REQUIRED BY THIS SECTION HAS BEEN FILED AND THE TAX IMPOSED PURSUANT TO THIS ARTICLE HAS BEEN PAID AS REQUIRED IN THIS SECTION.

(D) IF A RETURN REQUIRED BY THIS ARTICLE IS NOT FILED, OR IF A RETURN FILED IS INCORRECT OR INSUFFICIENT, THE AMOUNT OF TAX DUE SHALL BE DETERMINED BY THE TREASURER FROM SUCH RECORDS OR INFORMATION AS MAY BE OBTAINABLE, INCLUDING ASSESSED VALUATION OF THE REAL PROPERTY OR INTEREST THEREIN AND OTHER APPROPRIATE FACTORS. NOTICE OF THIS DETERMINATION SHALL BE GIVEN TO THE PERSON LIABLE FOR THE PAYMENT OF THE TAX. THE DETERMINATION SHALL FINALLY AND IRREVOCABLY FIX THE TAX UNLESS THE PERSON AGAINST WHOM IT IS ASSESSED, WITHIN NINETY DAYS AFTER THE GIVING OF NOTICE OF THE DETERMINATION, SEEKS JUDICIAL REVIEW PURSUANT TO SECTION THIRTEEN HUNDRED NINETY-SIX OF THIS ARTICLE, OR UNLESS THE TREASURER ON THE TREASURER'S OWN MOTION SHALL REDETERMINE THE TAX.

S 1389. EXEMPTIONS. (A) THE FOLLOWING SHALL BE EXEMPT FROM THE PAYMENT OF THE TAX:

(1) THE STATE OF NEW YORK, OR ANY OF ITS AGENCIES, INSTRUMENTALITIES, POLITICAL SUBDIVISIONS, OR PUBLIC CORPORATIONS (INCLUDING A PUBLIC CORPORATION CREATED PURSUANT TO AN AGREEMENT OR COMPACT WITH ANOTHER STATE OR THE DOMINION OF CANADA); AND

(2) THE UNITED NATIONS, OR THE UNITED STATES OF AMERICA OR ANY OF ITS AGENCIES OR INSTRUMENTALITIES.

(B) THE TAX SHALL NOT APPLY TO ANY OF THE FOLLOWING CONVEYANCES:

(1) CONVEYANCES TO THE UNITED NATIONS, THE UNITED STATES OF AMERICA, THE STATE OF NEW YORK, OR ANY OF THEIR INSTRUMENTALITIES, AGENCIES OR POLITICAL SUBDIVISIONS OR ANY PUBLIC CORPORATION (INCLUDING A PUBLIC CORPORATION CREATED PURSUANT TO AGREEMENT OR COMPACT WITH ANOTHER STATE OR THE DOMINION OF CANADA);

(2) CONVEYANCES WHICH ARE OR WERE USED TO SECURE A DEBT OR OTHER OBLIGATION;

(3) CONVEYANCES WHICH, WITHOUT ADDITIONAL CONSIDERATION, CONFIRM, CORRECT, MODIFY OR SUPPLEMENT A DEED PREVIOUSLY RECORDED;

(4) CONVEYANCES OF REAL PROPERTY WITHOUT CONSIDERATION AND OTHERWISE THAN IN CONNECTION WITH A SALE, INCLUDING DEEDS CONVEYING REALTY AS BONA FIDE GIFTS;

(5) CONVEYANCES GIVEN IN CONNECTION WITH A TAX SALE;

(6) CONVEYANCES TO EFFECTUATE A MERE CHANGE OF IDENTITY OR FORM OF OWNERSHIP OR ORGANIZATION WHERE THERE IS NO CHANGE IN BENEFICIAL OWNERSHIP, OTHER THAN CONVEYANCES TO A COOPERATIVE HOUSING CORPORATION OF THE REAL PROPERTY COMPRISING THE COOPERATIVE DWELLING OR DWELLINGS;

(7) CONVEYANCES WHICH CONSIST OF A DEED OF PARTITION;

(8) CONVEYANCES GIVEN PURSUANT TO THE FEDERAL BANKRUPTCY ACT;

(9) CONVEYANCES OF REAL PROPERTY WHICH CONSIST OF THE EXECUTION OF A CONTRACT TO SELL REAL PROPERTY WITHOUT THE USE OR OCCUPANCY OF SUCH PROPERTY OR THE GRANTING OF AN OPTION TO PURCHASE REAL PROPERTY WITHOUT THE USE OR OCCUPANCY OF SUCH PROPERTY;

(10) CONVEYANCES OF REAL PROPERTY FOR OPEN SPACE, PARKS, OR HISTORIC PRESERVATION PURPOSES TO ANY NOT-FOR-PROFIT TAX EXEMPT CORPORATION OPERATED FOR CONSERVATION, ENVIRONMENTAL, PARKS OR HISTORIC PRESERVATION PURPOSES; AND

(11) CONVEYANCES OF REAL PROPERTY WHERE THE PROPERTY IS PREDOMINANTLY VIABLE AGRICULTURAL LAND AS DEFINED IN SUBDIVISION SEVEN OF SECTION THREE HUNDRED ONE OF THE AGRICULTURE AND MARKETS LAW, AND THE ENTIRE PROPERTY TO BE CONVEYED IS SUBJECT TO A DEVELOPMENT RESTRICTION, PROVIDED THAT THE DEVELOPMENT RESTRICTION PRECLUDES THE CONVERSION OF THE PROPERTY TO A NON-AGRICULTURAL USE AND THAT THE DEVELOPMENT RESTRICTION IS EVIDENCED BY AN EASEMENT, AGREEMENT, OR OTHER SUITABLE INSTRUMENT WHICH IS TO BE CONVEYED TO THE MUNICIPALITY SIMULTANEOUSLY WITH THE CONVEYANCE OF THE REAL PROPERTY.

(C) AN EXEMPTION FROM THE TAX WHICH IS EQUAL TO THE MEDIAN SALES PRICE OF RESIDENTIAL REAL PROPERTY WITHIN THE APPLICABLE TOWN OR CITY, AS DETERMINED BY THE OFFICE OF REAL PROPERTY SERVICES PURSUANT TO PROCEDURES ADOPTED FOR THIS PURPOSE BY THE STATE BOARD OF REAL PROPERTY SERVICES ESTABLISHED PURSUANT TO ARTICLE TWO OF THE REAL PROPERTY TAX LAW, SHALL BE ALLOWED ON THE CONSIDERATION OF THE CONVEYANCE OF IMPROVED OR UNIMPROVED REAL PROPERTY OR AN INTEREST THEREIN.

S 1390. CREDIT. A BUYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX DUE ON A CONVEYANCE OF REAL PROPERTY TO THE EXTENT THE TAX WAS PAID BY THE BUYER ON A PRIOR CREATION OF A LEASEHOLD OF ALL OR A PORTION OF THE SAME REAL PROPERTY OR ON THE GRANTING OF AN OPTION OR CONTRACT TO PURCHASE ALL OR A PORTION OF THE SAME REAL PROPERTY BY THE BUYER. SUCH CREDIT SHALL BE COMPUTED BY MULTIPLYING THE TAX PAID ON THE CREATION OF THE LEASEHOLD OR ON THE GRANTING OF THE OPTION OR CONTRACT BY A FRACTION, THE NUMERATOR OF WHICH IS THE VALUE OF THE CONSIDERATION USED TO COMPUTE SUCH TAX PAID WHICH IS NOT YET DUE TO SUCH SELLER ON THE DATE OF THE SUBSEQUENT CONVEYANCE (AND WHICH SUCH SELLER WILL NOT BE ENTITLED TO

RECEIVE AFTER SUCH DATE), AND THE DENOMINATOR OF WHICH IS THE TOTAL VALUE OF THE CONSIDERATION USED TO COMPUTE SUCH TAX PAID.

S 1391. COOPERATIVE HOUSING CORPORATION TRANSFERS. (A) NOTWITHSTANDING THE DEFINITION OF "CONTROLLING INTEREST" CONTAINED IN SUBSECTION (B) OF SECTION THIRTEEN HUNDRED EIGHTY-FIVE OF THIS ARTICLE OR ANYTHING TO THE CONTRARY CONTAINED IN SUBSECTION (E) OF SUCH SECTION, THE TAX IMPOSED PURSUANT TO THIS ARTICLE SHALL APPLY TO (1) THE ORIGINAL CONVEYANCE OF SHARES OF STOCK IN A COOPERATIVE HOUSING CORPORATION IN CONNECTION WITH THE GRANT OR TRANSFER OF A PROPRIETARY LEASEHOLD BY THE COOPERATIVE CORPORATION OR COOPERATIVE PLAN SPONSOR, AND (2) THE SUBSEQUENT CONVEYANCE OF THE STOCK IN A COOPERATIVE HOUSING CORPORATION IN CONNECTION WITH THE GRANT OR TRANSFER OF A PROPRIETARY LEASEHOLD BY THE OWNER THEREOF. WITH RESPECT TO ANY SUBSEQUENT CONVEYANCE WHERE THE PROPERTY IS AN INDIVIDUAL RESIDENTIAL UNIT, THE CONSIDERATION FOR THE INTEREST CONVEYED SHALL EXCLUDE THE VALUE OF ANY LIENS ON CERTIFICATES OF STOCK OR OTHER EVIDENCES OF AN OWNERSHIP INTEREST IN AND A PROPRIETARY LEASE FROM A CORPORATION OR PARTNERSHIP FORMED FOR THE PURPOSE OF COOPERATIVE OWNERSHIP OF RESIDENTIAL INTEREST IN REAL ESTATE REMAINING THEREON AT THE TIME OF CONVEYANCE. IN DETERMINING THE TAX ON A CONVEYANCE DESCRIBED IN PARAGRAPH ONE OF THIS SUBSECTION, A CREDIT SHALL BE ALLOWED FOR A PROPORTIONATE PART OF THE AMOUNT OF ANY TAX PAID UPON THE CONVEYANCE TO THE COOPERATIVE HOUSING CORPORATION OF THE REAL PROPERTY COMPRISING THE COOPERATIVE DWELLING OR DWELLINGS TO THE EXTENT THAT SUCH CONVEYANCE EFFECTUATED A MERE CHANGE OF IDENTITY OR FORM OF OWNERSHIP OF SUCH PROPERTY AND NOT A CHANGE IN THE BENEFICIAL OWNERSHIP OF SUCH PROPERTY. THE AMOUNT OF THE CREDIT SHALL BE DETERMINED BY MULTIPLYING THE AMOUNT OF TAX PAID UPON THE CONVEYANCE TO THE COOPERATIVE HOUSING CORPORATION BY A PERCENTAGE REPRESENTING THE EXTENT TO WHICH THE CONVEYANCE EFFECTUATED A MERE CHANGE OF IDENTITY OR FORM OF OWNERSHIP AND NOT A CHANGE IN THE BENEFICIAL OWNERSHIP OF THE PROPERTY, AND THEN MULTIPLYING THE RESULTING PRODUCT BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE NUMBER OF SHARES OF STOCK CONVEYED IN A TRANSACTION DESCRIBED IN PARAGRAPH ONE OF THIS SUBSECTION, AND THE DENOMINATOR OF WHICH SHALL BE THE TOTAL NUMBER OF SHARES OF STOCK OF THE COOPERATIVE HOUSING CORPORATION (INCLUDING ANY STOCK HELD BY THE CORPORATION). IN NO EVENT, HOWEVER, SHALL SUCH CREDIT REDUCE THE TAX ON A CONVEYANCE DESCRIBED IN PARAGRAPH ONE OF THIS SUBSECTION BELOW ZERO, NOR SHALL ANY SUCH CREDIT BE ALLOWED FOR A TAX PAID MORE THAN TWENTY-FOUR MONTHS PRIOR TO THE DATE ON WHICH OCCURS THE FIRST IN A SERIES OF CONVEYANCES OF SHARES OF STOCK IN AN OFFERING OF COOPERATIVE HOUSING CORPORATION SHARES DESCRIBED IN PARAGRAPH ONE OF THIS SUBSECTION.

(B) EVERY COOPERATIVE HOUSING CORPORATION SHALL BE REQUIRED TO FILE AN INFORMATION RETURN WITH THE TREASURER BY JULY FIFTEENTH OF EACH YEAR COVERING THE PRECEDING PERIOD OF JANUARY FIRST THROUGH JUNE THIRTIETH AND BY JANUARY FIFTEENTH OF EACH YEAR COVERING THE PRECEDING PERIOD OF JULY FIRST THROUGH DECEMBER THIRTY-FIRST. THE RETURN SHALL CONTAIN SUCH INFORMATION REGARDING THE CONVEYANCE OF SHARES OF STOCK IN THE COOPERATIVE HOUSING CORPORATION AS THE TREASURER MAY DEEM NECESSARY, INCLUDING, BUT NOT LIMITED TO, THE NAMES, ADDRESSES AND EMPLOYEE IDENTIFICATION NUMBERS OR SOCIAL SECURITY NUMBERS OF THE SELLER AND THE BUYER, THE NUMBER OF SHARES CONVEYED, THE DATE OF THE CONVEYANCE AND THE CONSIDERATION PAID FOR SUCH CONVEYANCE.

S 1392. DESIGNATION OF AGENTS. THE TREASURER IS AUTHORIZED TO DESIGNATE THE RECORDING OFFICER TO ACT AS HIS OR HER AGENT FOR PURPOSES OF COLLECTING THE TAX AUTHORIZED BY THIS ARTICLE. THE TREASURER SHALL PROVIDE FOR THE MANNER IN WHICH A PERSON MAY BE DESIGNATED AS HIS OR HER

AGENT SUBJECT TO SUCH TERMS AND CONDITIONS AS THE TREASURER MAY PRESCRIBE. THE TAX SHALL BE PAID TO THE AGENT AS PROVIDED IN SECTION THIRTEEN HUNDRED EIGHTY-EIGHT OF THIS ARTICLE.

S 1393. LIABILITY OF RECORDING OFFICER. A RECORDING OFFICER SHALL NOT BE LIABLE FOR ANY UNINTENTIONAL INACCURACY IN THE AMOUNT OF TAX THAT HE OR SHE COLLECTS SO LONG AS HE OR SHE COMPUTES AND COLLECTS THE TAX ON THE AMOUNT OF CONSIDERATION OR THE VALUE OF THE INTEREST CONVEYED AS THOSE AMOUNTS ARE PROVIDED TO HIM OR HER BY THE PERSON PAYING THE TAX.

S 1394. REFUNDS. WHENEVER THE TREASURER DETERMINES THAT ANY MONEYS RECEIVED UNDER THE PROVISIONS OF THE LOCAL LAW ENACTED PURSUANT TO THIS ARTICLE WERE PAID IN ERROR, HE OR SHE MAY CAUSE SUCH MONEYS TO BE REFUNDED PURSUANT TO THE REQUIREMENTS HE OR SHE MAY PRESCRIBE, PROVIDED THAT ANY APPLICATION FOR A REFUND IS FILED WITH THE TREASURER WITHIN TWO YEARS FROM THE DATE THE ERRONEOUS PAYMENT WAS MADE.

S 1395. DEPOSIT AND DISPOSITION OF REVENUE. (A) ALL TAXES, PENALTIES AND INTEREST IMPOSED BY THE DESIGNATED COMMUNITY UNDER THE AUTHORITY OF SECTION THIRTEEN HUNDRED EIGHTY-SIX OF THIS ARTICLE, WHICH ARE COLLECTED BY THE TREASURER OR HIS OR HER AGENTS, SHALL BE DEPOSITED IN A SINGLE TRUST FUND FOR THE DESIGNATED COMMUNITY AND SHALL BE KEPT IN TRUST AND SEPARATE AND APART FROM ALL OTHER MONEYS IN POSSESSION OF THE TREASURER. MONEYS IN THIS FUND SHALL BE DEPOSITED AND SECURED IN THE MANNER PROVIDED BY SECTION TEN OF THE GENERAL MUNICIPAL LAW. PENDING EXPENDITURE FROM THIS FUND, MONEYS IN THE FUND MAY BE INVESTED IN THE MANNER PROVIDED IN SECTION ELEVEN OF THE GENERAL MUNICIPAL LAW. ANY INTEREST EARNED OR CAPITAL GAIN REALIZED ON THESE MONEYS SHALL ACCRUE TO AND BECOME PART OF THE FUND.

(B) THE TREASURER SHALL RETAIN THE AMOUNT HE OR SHE DETERMINES TO BE NECESSARY FOR REFUNDS WITH RESPECT TO THE TAX IMPOSED BY THE DESIGNATED COMMUNITY, UNDER THE AUTHORITY OF SECTION THIRTEEN HUNDRED EIGHTY-SIX OF THIS ARTICLE, OUT OF WHICH THE TREASURER SHALL PAY ANY REFUNDS OF TAXES TO THOSE TAXPAYERS ENTITLED TO A REFUND PURSUANT TO THE PROVISIONS OF THIS ARTICLE.

(C) THE TREASURER, AFTER RESERVING THESE REFUNDS, SHALL ON OR BEFORE THE TWELFTH DAY OF EACH MONTH PAY TO THE DESIGNATED COMMUNITY THE TAXES, PENALTIES, AND INTEREST IMPOSED BY THE DESIGNATED COMMUNITY UNDER THE AUTHORITY OF SECTION THIRTEEN HUNDRED EIGHTY-SIX OF THIS ARTICLE, COLLECTED BY THE TREASURER, DURING THE PRECEDING CALENDAR MONTH. THE AMOUNT PAYABLE SHALL BE CERTIFIED TO THE DESIGNATED COMMUNITY BY THE TREASURER, WHO SHALL NOT BE HELD LIABLE FOR ANY UNINTENTIONAL INACCURACY IN THE CERTIFICATION. PROVIDED, HOWEVER, ANY CERTIFICATION MAY BE BASED ON INFORMATION AS MAY BE AVAILABLE TO THE TREASURER AT THE TIME THE CERTIFICATION MUST BE MADE UNDER THIS SECTION. WHERE THE AMOUNT PAID OVER TO THE DESIGNATED COMMUNITY IN ANY MONTH IS MORE OR LESS THAN THE AMOUNT DUE TO THE DESIGNATED COMMUNITY, THE AMOUNT OF THE OVERPAYMENT OR UNDERPAYMENT SHALL BE CERTIFIED TO THE DESIGNATED COMMUNITY BY THE TREASURER, WHO SHALL NOT BE HELD LIABLE FOR ANY UNINTENTIONAL INACCURACY IN THE CERTIFICATION. THE AMOUNT OF THE OVERPAYMENT OR UNDERPAYMENT SHALL BE CERTIFIED TO THE DESIGNATED COMMUNITY AS SOON AFTER THE DISCOVERY OF THE OVERPAYMENT OR UNDERPAYMENT AS REASONABLY POSSIBLE AND SUBSEQUENT PAYMENTS BY THE TREASURER TO THE DESIGNATED COMMUNITY SHALL BE ADJUSTED BY SUBTRACTING THE AMOUNT OF ANY OVERPAYMENT FROM OR BY ADDING THE AMOUNT OF ANY UNDERPAYMENT TO SUBSEQUENT PAYMENTS AS THE TREASURER AND DESIGNATED COMMUNITY CONSIDER REASONABLE IN VIEW OF THE OVERPAYMENT OR UNDERPAYMENT AND ALL OTHER FACTS AND CIRCUMSTANCES.

(D) ALL MONEYS RECEIVED BY A DESIGNATED COMMUNITY FROM THE TREASURER SHALL BE DEPOSITED IN THE COMMUNITY PRESERVATION FUND OF THE DESIGNATED COMMUNITY, PURSUANT TO SECTION SIX-T OF THE GENERAL MUNICIPAL LAW.

S 1396. JUDICIAL REVIEW. (A) ANY FINAL DETERMINATION OF THE AMOUNT OF ANY TAX PAYABLE UNDER SECTION THIRTEEN HUNDRED EIGHTY-EIGHT 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 THERE-FOR IS MADE TO THE SUPREME COURT WITHIN FOUR MONTHS AFTER THE GIVING OF THE NOTICE OF THE FINAL DETERMINATION, PROVIDED, HOWEVER, THAT ANY PROCEEDING UNDER ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES SHALL NOT BE INSTITUTED UNLESS (1) THE AMOUNT OF ANY TAX SOUGHT TO BE REVIEWED, WITH THE INTEREST AND PENALTIES THEREON AS MAY BE PROVIDED FOR BY LOCAL LAW SHALL BE FIRST DEPOSITED AND THERE IS FILED AN UNDER-TAKING, ISSUED BY A SURETY COMPANY AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE AND APPROVED BY THE STATE SUPERINTENDENT OF INSURANCE 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 (2) 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 APPLI-CATION.

(B) WHERE ANY TAX IMPOSED HEREUNDER SHALL HAVE BEEN ERRONEOUSLY, ILLE-GALLY 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 AND RULES; PROVIDED, HOWEVER, THAT (1) SUCH PROCEEDING IS INSTITUTED WITHIN FOUR MONTHS AFTER THE GIVING OF THE NOTICE OF SUCH DENIAL, (2) A FINAL DETERMINATION OF TAX DUE WAS NOT PREVIOUSLY MADE, AND (3) 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 PETITIONER WILL PAY ALL COSTS AND CHARGES WHICH MAY ACCRUE IN THE PROSECUTION OF SUCH PROCEEDING.

S 1397. APPORTIONMENT. A LOCAL LAW ADOPTED BY ANY DESIGNATED COMMUNI-TY, PURSUANT TO THIS ARTICLE, SHALL PROVIDE FOR A METHOD OF APPORTION-MENT FOR DETERMINING THE AMOUNT OF TAX DUE WHENEVER THE REAL PROPERTY OR INTEREST THEREIN IS SITUATED WITHIN AND WITHOUT THE DESIGNATED COMMUNI-TY.

S 1398. MISCELLANEOUS. A LOCAL LAW ADOPTED BY ANY DESIGNATED COMMUNITY PURSUANT TO THIS ARTICLE MAY CONTAIN OTHER PROVISIONS THE DESIGNATED COMMUNITY DEEMS NECESSARY FOR THE PROPER ADMINISTRATION OF THE TAX IMPOSED PURSUANT TO THIS ARTICLE, INCLUDING PROVISIONS CONCERNING THE DETERMINATION OF TAX, THE IMPOSITION OF INTEREST ON UNDERPAYMENTS AND OVERPAYMENTS AND THE IMPOSITION OF CIVIL PENALTIES. SUCH PROVISIONS SHALL BE IDENTICAL TO THE CORRESPONDING PROVISIONS OF THE REAL ESTATE TRANSFER TAX IMPOSED BY ARTICLE THIRTY-ONE OF THIS CHAPTER, SO FAR AS THOSE PROVISIONS CAN BE MADE APPLICABLE TO THE TAX IMPOSED PURSUANT TO THIS ARTICLE.

S 1399. RETURNS TO BE CONFIDENTIAL. (A) EXCEPT IN ACCORDANCE WITH PROPER JUDICIAL ORDER OR AS OTHERWISE PROVIDED BY LAW, IT SHALL BE UNLAWFUL FOR THE TREASURER OR ANY OFFICER OR EMPLOYEE OF THE COUNTY OR DESIGNATED COMMUNITY, INCLUDING ANY PERSON ENGAGED OR RETAINED ON AN INDEPENDENT CONTRACT BASIS, TO DIVULGE OR MAKE KNOWN IN ANY MANNER THE PARTICULARS SET FORTH OR DISCLOSED IN ANY RETURN REQUIRED UNDER A LOCAL LAW ENACTED PURSUANT TO THIS ARTICLE. PROVIDED, HOWEVER, THAT NOTHING IN THIS SECTION SHALL PROHIBIT THE RECORDING OFFICER FROM MAKING A NOTATION ON AN INSTRUMENT EFFECTING A CONVEYANCE INDICATING THE AMOUNT OF TAX PAID. NO RECORDED INSTRUMENT EFFECTING A CONVEYANCE SHALL BE CONSIDERED A RETURN FOR PURPOSES OF THIS SECTION.

(B) THE OFFICERS CHARGED WITH THE CUSTODY OF SUCH RETURNS SHALL NOT BE REQUIRED TO PRODUCE ANY OF THEM OR EVIDENCE OF ANYTHING CONTAINED IN THEM IN ANY ACTION OR PROCEEDING IN ANY COURT, EXCEPT ON BEHALF OF THE COUNTY OR DESIGNATED COMMUNITY IN ANY ACTION OR PROCEEDING INVOLVING THE COLLECTION OF A TAX DUE UNDER A LOCAL LAW ENACTED PURSUANT TO THIS ARTICLE TO WHICH THE COUNTY OR DESIGNATED COMMUNITY IS A PARTY, OR A CLAIMANT, OR ON BEHALF OF ANY PARTY TO ANY ACTION OR PROCEEDING UNDER THE PROVISIONS OF A LOCAL LAW ENACTED PURSUANT TO THIS ARTICLE WHEN THE RETURNS OR FACTS SHOWN THEREBY ARE DIRECTLY INVOLVED IN THE ACTION OR PROCEEDING, IN ANY OF WHICH EVENTS THE COURT MAY REQUIRE THE PRODUCTION OF, AND MAY ADMIT IN EVIDENCE, SO MUCH OF THE RETURNS OR OF THE FACTS SHOWN THEREBY, AS ARE PERTINENT TO THE ACTION OR PROCEEDING AND NO MORE.

(C) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT THE DELIVERY TO A SELLER OR BUYER OF AN INSTRUMENT EFFECTING A CONVEYANCE OR THE DULY AUTHORIZED REPRESENTATIVE OF A SELLER OR BUYER OF A CERTIFIED COPY OF ANY RETURN FILED IN CONNECTION WITH THAT INSTRUMENT OR TO PROHIBIT THE PUBLICATION OF STATISTICS SO CLASSIFIED AS TO PREVENT THE IDENTIFICATION OF PARTICULAR RETURNS AND THE ITEMS THEREOF, OR THE INSPECTION BY THE LEGAL REPRESENTATIVES OF THE COUNTY OR DESIGNATED COMMUNITY OF THE RETURN OF ANY TAXPAYER WHO SHALL BRING ACTION TO SET ASIDE OR REVIEW THE TAX BASED THEREON.

S 4. This act shall take effect immediately.