S T A T E O F N E W Y O R K

3914

2009-2010 Regular Sessions

I N S E N A T E

April 6, 2009

Introduced by Sen. ESPADA -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the general municipal law, the real property tax law and the tax law, in relation to authorizing the creation of housing opportunity zones in certain counties, cities, towns and villages within the state

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 article 19-AA to read as follows:

ARTICLE 19-AA

NEW YORK STATE HOUSING OPPORTUNITY ZONES ACT

SECTION 981. SHORT TITLE.
982. LEGISLATIVE FINDINGS AND DECLARATION.
983. DEFINITIONS.
984. CRITERIA FOR APPROVAL OF HOUSING OPPORTUNITY ZONE DESIGNATION PLANS.
985. RESPONSIBILITIES OF THE COMMISSIONER.
986. APPLICATION FOR HOUSING OPPORTUNITY ZONE DESIGNATION.
987. HOUSING OPPORTUNITY ZONE DESIGNATION PLANS.
988. LOCAL HOUSING OPPORTUNITY ZONE ADMINISTRATOR.
989. SPECIAL PROVISIONS.

S 981. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "NEW YORK STATE HOUSING OPPORTUNITY ZONES ACT".

S 982. LEGISLATIVE FINDINGS AND DECLARATION. IT IS HEREBY FOUND AND DECLARED THAT MANY AREAS WITHIN THE STATE ARE CHARACTERIZED BY OR ARE IN DANGER OF BEING CHARACTERIZED BY A SEVERE SHORTAGE OF SAFE, DECENT AND AFFORDABLE HOUSING, DILAPIDATED AND ABANDONED RESIDENTIAL STRUCTURES AND SHRINKING TAX BASES, WHICH NEEDS ARE NOT CURRENTLY BEING ADDRESSED BY THE FREE MARKET. MOREOVER, IT IS FOUND THAT THE LACK OF AFFORDABLE HOUSING IN THESE AREAS THREATENS EMPLOYMENT GROWTH PROSPECTS AND THAT

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

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WITHOUT ADEQUATE PROVISION OF HOUSING THESE REGIONS OF THE STATE MAY NOT RETAIN SKILLED LABOR AND SUSTAIN THE GROWTH IN EMPLOYMENT AND OUTPUT OF WHICH THEY ARE CAPABLE. WE FURTHER FIND THAT STATE RESOURCES ALONE ARE INSUFFICIENT TO MEET THE GROWING NEED FOR AFFORDABLE HOUSING WITHIN THE STATE AND THAT A COMBINATION OF STATE AND LOCAL INCENTIVES MAY FOSTER PRIVATE INVOLVEMENT IN MEETING THE AFFORDABLE HOUSING NEEDS OF THE STATE. THEREFORE, TO ENCOURAGE SUCH PRIVATE PARTICIPATION AND INVESTMENT IN THE CONSTRUCTION, CONVERSION AND/OR REHABILITATION OF AFFORDABLE HOUSING, WE HEREBY ESTABLISH THE HOUSING OPPORTUNITY ZONES PILOT PROGRAM.

S 983. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE:

(A) "COMMISSIONER" SHALL MEAN THE COMMISSIONER OF HOUSING AND COMMUNITY RENEWAL.

(B) "APPLICANT" SHALL MEAN THE COUNTY, CITY, TOWN OR VILLAGE SUBMITTING AN APPLICATION IN THE MANNER AUTHORIZED BY LOCAL LAW FOR APPROVAL OF A HOUSING OPPORTUNITY ZONE DESIGNATION PLAN.

(C) "HOUSING OPPORTUNITY ZONE" SHALL MEAN AN AREA WITHIN THE STATE THAT HAS BEEN DESIGNATED AS A HOUSING OPPORTUNITY ZONE PURSUANT TO THIS ARTICLE.

(D) "HOUSING OPPORTUNITY ZONE DESIGNATION PLAN" SHALL MEAN A PLAN SUBMITTED BY AN APPLICANT WHICH DEFINES THE BOUNDARIES OF THE ZONE AND SETS FORTH THE BENEFITS AND INCENTIVES TO BE APPLIED WITHIN THE ZONE PURSUANT TO THIS ARTICLE, INCLUDING ANY MODIFICATIONS TO LOCAL ZONING.

(E) "REHABILITATION" SHALL MEAN ALL WORK NECESSARY TO BRING A RESIDENTIAL PROPERTY INTO COMPLIANCE WITH ALL APPLICABLE LAWS AND REGULATIONS INCLUDING BUT NOT LIMITED TO THE INSTALLATION, REPLACEMENT OR REPAIR OF HEATING, PLUMBING, ELECTRICAL AND RELATED SYSTEMS AND THE ELIMINATION OF ALL HAZARDOUS VIOLATIONS IN THE STRUCTURE IN ACCORDANCE WITH STATE AND LOCAL LAWS, REGULATIONS OF STATE AND LOCAL AGENCIES AND STANDARDS AS MAY BE PROMULGATED BY THE COMMISSIONER. REHABILITATION MAY ALSO INCLUDE RECONSTRUCTION OR WORK TO IMPROVE THE HABITABILITY OR PROLONG THE USEFUL LIFE OF THE RESIDENTIAL PROPERTY, CONSISTENT WITH STANDARDS AS MAY BE PROMULGATED BY THE COMMISSIONER.

(F) "CONVERSION" SHALL MEAN ALL WORK NECESSARY TO CONVERT NON-RESIDENTIAL PROPERTY TO RESIDENTIAL PROPERTY.

(G) "CONSTRUCTION, CONVERSION OR REHABILITATION OF RESIDENTIAL UNITS" SHALL MEAN, FOR THE PURPOSES OF THIS ARTICLE, THE NEW CONSTRUCTION, CONVERSION OR REHABILITATION OF RESIDENTIAL HOUSING UNITS, OF WHICH AT LEAST ONE-THIRD ARE AFFORDABLE HOUSING UNITS. NO RESIDENTIAL HOUSING SHALL BE ELIGIBLE FOR THE BENEFITS DESCRIBED HEREIN AS ACCRUING TO THE CONSTRUCTION, CONVERSION OR REHABILITATION OF RESIDENTIAL UNITS IN A HOUSING OPPORTUNITY ZONE UNLESS SUCH RESIDENTIAL HOUSING IS COMPOSED OF AT LEAST ONE-THIRD AFFORDABLE HOUSING UNITS AS DEFINED HEREIN.

(H) "AFFORDABLE HOUSING UNITS" SHALL MEAN, FOR THE PURPOSES OF THIS ARTICLE, THOSE SPECIFIC UNITS TO BE CONSTRUCTED, CONVERTED OR REHABILITATED PURSUANT TO A PLAN APPROVED BY THE COMMISSIONER, TO INSURE THAT THOSE UNITS REMAIN AFFORDABLE FOR AT LEAST THE TERM OF ANY ASSISTANCE PROVIDED HEREIN TO PERSONS AND FAMILIES WHOSE INCOME DO NOT EXCEED EIGHTY PERCENT OF THE MEDIAN INCOME FOR THE METROPOLITAN STATISTICAL AREA IN WHICH THE ZONE IS LOCATED OR, IF THE ZONE IS OUTSIDE A METROPOLITAN STATISTICAL AREA, THE COUNTY IN WHICH THE ZONE IS LOCATED.

(I) "CHIEF EXECUTIVE" SHALL MEAN (I) A COUNTY EXECUTIVE OR MANAGER OF A COUNTY; (II) IN A COUNTY NOT HAVING A COUNTY EXECUTIVE OR MANAGER, THE CHAIRPERSON OR OTHER PRESIDING OFFICER OF THE COUNTY LEGISLATIVE BODY; (III) A MAYOR OF A CITY OR VILLAGE, EXCEPT WHERE A CITY OR VILLAGE HAS A

MANAGER, IT SHALL MEAN SUCH A MANAGER; OR (IV) A SUPERVISOR OF A TOWN, EXCEPT WHERE A TOWN HAS A MANAGER, IT SHALL MEAN SUCH MANAGER.

(J) "LOCAL HOUSING OPPORTUNITY ZONE ADMINISTRATOR" SHALL MEAN THE ENTITY OR PERSON DESIGNATED BY THE APPLICANT THAT IS RESPONSIBLE FOR MONITORING, EVALUATING AND COORDINATING ALL HOUSING OPPORTUNITY ZONE BENEFITS AND COMPLYING WITH ALL FILING, REPORTING, RECERTIFICATION AND OTHER REQUIREMENTS ON BEHALF OF THE APPLICANT AS SET FORTH IN THIS ARTICLE OR IN RULES AND REGULATIONS PROMULGATED BY THE COMMISSIONER.

S 984. CRITERIA FOR APPROVAL OF HOUSING OPPORTUNITY ZONE DESIGNATION PLANS. TO BE ELIGIBLE FOR APPROVAL BY THE COMMISSIONER, A PROPOSED HOUSING OPPORTUNITY ZONE DESIGNATION PLAN MUST DESIGNATE A ZONE WHICH ENCOMPASSES AN AREA WHICH IS CHARACTERIZED BY A SHORTAGE OF AFFORDABLE HOUSING AND WHICH CORRESPONDS TO RECOGNIZED OR ESTABLISHED NEIGHBORHOODS OR AREAS DEFINED BY GEOGRAPHIC BOUNDARIES WITHIN A COUNTY, CITY, TOWN OR VILLAGE AND DOES NOT EXCEED NINE SQUARE MILES; AND MEETS SUCH OTHER REQUIREMENTS AS MAY BE ESTABLISHED IN RULES AND REGULATIONS PROMULGATED BY THE COMMISSIONER AFTER CONSULTATION WITH THE DIRECTOR OF THE BUDGET AND COMMISSIONER OF TAXATION AND FINANCE, INCLUDING BUT NOT LIMITED TO:

(A) A COMPREHENSIVE DEMONSTRATION OF A SHORTAGE OF AFFORDABLE HOUSING AND THE REASONS THEREFOR AS EVIDENCED BY EMPLOYMENT DECLINE, INCREASE IN UNEMPLOYMENT AND PUBLIC ASSISTANCE RECIPIENTS, DECLINE IN PER CAPITA INCOME, THE EXTENT OF DETERIORATED RESIDENTIAL PROPERTIES, OR OTHER FACTORS;

(B) A DEMONSTRATION OF THE MANNER IN WHICH THE HOUSING OPPORTUNITY ZONE DESIGNATION PLAN ENUNCIATES THE NEEDS OF THE ZONE AND SETS FORTH SHORT-TERM AND LONG-TERM PROPOSALS TO ADDRESS THEM;

(C) A DEMONSTRATION OF THE MANNER IN WHICH PROGRESS IN IMPLEMENTING THE HOUSING OPPORTUNITY ZONE DESIGNATION PLAN WILL BE REGULARLY EVALUATED ON THE LOCAL LEVEL AND HOW INFORMATION ESSENTIAL FOR PERIODIC EVALUATIONS WILL BE COMPILED; AND

(D) A DEMONSTRATION OF SUBSTANTIAL LONG-TERM AND SHORT-TERM LOCAL PUBLIC AND PRIVATE COMMITMENTS TO MEETING THE HOUSING NEEDS OF LOW-INCOME AND MEDIAN-INCOME PERSONS IN THE AREA.

S 985. RESPONSIBILITIES OF THE COMMISSIONER. THE COMMISSIONER SHALL:

(A) AFTER CONSULTATION WITH THE DIRECTOR OF THE BUDGET AND THE COMMISSIONER OF TAXATION AND FINANCE, PROMULGATE RULES AND REGULATIONS GOVERNING: (I) THE CRITERIA FOR APPROVAL OF A PROPOSED HOUSING OPPORTUNITY ZONE DESIGNATION PLAN AS SET FORTH IN SECTION NINE HUNDRED EIGHTY-FOUR OF THIS ARTICLE, (II) THE APPLICATION PROCESS, AND (III) OTHER MATTERS AS MAY BE APPROPRIATE, INCLUDING PROGRAM EVALUATION AND ASSESSMENT;

(B) RECEIVE AND REVIEW PROPOSED HOUSING OPPORTUNITY ZONE DESIGNATION PLANS AND REVISIONS THERETO; SUCH REVIEW SHALL INCLUDE A DETERMINATION OF WHETHER THE PLAN IS CONSISTENT WITH THE INTENT AND PURPOSE OF THIS ARTICLE AND ANY APPLICABLE FEDERAL, STATE, OR LOCAL LAW. IN REVIEWING PROPOSED HOUSING OPPORTUNITY ZONE DESIGNATION PLANS, THE COMMISSIONER SHALL CONSIDER THE LEVEL OF LOCAL PARTICIPATION INCLUDING, BUT NOT LIMITED TO, LOCAL TAX AND OTHER INCENTIVES AND THE PROVISION OF LOCAL SERVICES;

(C) APPROVE NOT MORE THAN FIVE HOUSING OPPORTUNITY ZONE DESIGNATION PLANS;

(D) COORDINATE WITH THE COMMISSIONER OF ECONOMIC DEVELOPMENT AND THE NEIGHBORHOOD BASED INITIATIVES OVERSIGHT COMMITTEE, APPROVAL OF SUCH DESIGNATION PLANS FOR HOUSING OPPORTUNITY ZONES WHICH ARE ALSO DESIGNATED EMPIRE ZONES PURSUANT TO ARTICLE EIGHTEEN-B OF THIS CHAPTER OR NEIGHBORHOOD BASED ALLIANCES PURSUANT TO ARTICLE NINETEEN-L OF THE EXECUTIVE LAW;

(E) REVIEW REPORTS ON PERFORMANCE OBJECTIVES PROGRESS AS PART OF THE PLAN REVIEW AND RECERTIFICATION PROCESS SET FORTH IN THIS ARTICLE AND PERIODICALLY SUBMIT A REPORT TO THE LEGISLATURE, THE FIRST REPORT BEING DUE THREE YEARS AND SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ARTICLE;

(F) TERMINATE HOUSING OPPORTUNITY ZONES WHICH FAIL TO RECERTIFY, AS SET FORTH IN THIS ARTICLE, A CONTINUING NEED FOR SUCH DESIGNATION.

S 986. APPLICATION FOR HOUSING OPPORTUNITY ZONE DESIGNATION. (A) A COUNTY (OTHER THAN A COUNTY LOCATED WITHIN A CITY), CITY, TOWN OR VILLAGE MAY ADOPT A LOCAL LAW AUTHORIZING SUCH MUNICIPAL CORPORATION TO PREPARE AND SUBMIT AN APPLICATION TO THE COMMISSIONER FOR DESIGNATION OF AN AREA THEREIN AS A HOUSING OPPORTUNITY ZONE; AND THE ADOPTION OF SUCH A LOCAL LAW BY THE MUNICIPAL CORPORATION WITHIN WHICH THE PROPOSED HOUSING OPPORTUNITY ZONE IS TO BE LOCATED SHALL BE A PREREQUISITE TO THE SUBMISSION OF AN APPLICATION FOR SUCH DESIGNATION. SUCH LOCAL LAW SHALL ALSO DESIGNATE THE BOUNDARIES OF SUCH AREA, PROVIDED, HOWEVER, THAT:

(I) A TOWN SHALL NOT BE AUTHORIZED AND EMPOWERED TO APPLY FOR DESIGNATION OF AN AREA AS A HOUSING OPPORTUNITY ZONE WHICH IS LOCATED WHOLLY OR PARTLY WITHIN A VILLAGE UNLESS SUCH ACTION IS CONCURRED IN BY THE GOVERNING BODY OF SUCH VILLAGE, AND THAT A COUNTY SHALL NOT BE AUTHORIZED AND EMPOWERED TO APPLY FOR DESIGNATION OF AN AREA AS A HOUSING OPPORTUNITY ZONE UNLESS SUCH ACTION IS CONCURRED IN BY THE GOVERNING BODY OF EACH CITY, TOWN OR VILLAGE IN WHICH SUCH ZONE IS LOCATED; AND

(II) NO APPLICATION FOR DESIGNATION OF AN AREA AS A HOUSING OPPORTUNITY ZONE PURSUANT TO THIS ARTICLE SHALL BE ACCEPTED UNLESS THE APPLICANT DEMONSTRATES THAT IT HAS, TO THE MAXIMUM EXTENT FEASIBLE, SOLICITED AND CONSIDERED THE VIEWS OF RESIDENTS OF THE PROPOSED ZONE, THE VIEWS OF STATE AND LOCAL OFFICIALS ELECTED TO REPRESENT SUCH RESIDENTS AND THE LOCAL PRIVATE ORGANIZATIONS REPRESENTING SUCH RESIDENTS.

(B) EACH APPLICATION SHALL:

(I) BE PREPARED IN A MANNER AND FORM PRESCRIBED BY RULES AND REGULATIONS PROMULGATED BY THE COMMISSIONER; THE CHIEF EXECUTIVE OF THE APPLICANT SHALL ENSURE THAT THE INFORMATION CONTAINED IN SUCH APPLICATION, TO THE MAXIMUM EXTENT POSSIBLE, IS ACCURATE AND COMPLETE;

(II) INCLUDE EVIDENCE OF THE ADOPTION OF LOCAL LAW AUTHORIZING SUBMISSION OF A HOUSING OPPORTUNITY ZONE DESIGNATION PLAN BY THE LOCAL GOVERNING BODY OF THE AREA IN WHICH THE HOUSING OPPORTUNITY ZONE IS TO BE LOCATED;

(III) IDENTIFY A LOCAL HOUSING OPPORTUNITY ZONE ADMINISTRATOR WHO WILL BE RESPONSIBLE FOR COMPLYING WITH THE FILING, REPORTING AND CERTIFICATION REQUIREMENTS SET FORTH IN THIS ARTICLE AND RULES AND REGULATIONS WHICH MAY BE PROMULGATED BY THE COMMISSIONER;

(IV) INCLUDE A MAP OF THE AREA COMPRISING THE PROPOSED HOUSING OPPORTUNITY ZONE, SHOWING EXISTING STREETS, HIGHWAYS, WATERWAYS, NATURAL BOUNDARIES AND OTHER PHYSICAL FEATURES;

(V) INCLUDE EVIDENCE THAT THE APPLICANT HAS, TO THE MAXIMUM EXTENT FEASIBLE, SOLICITED AND CONSIDERED THE VIEWS OF THE RESIDENTS OF THE PROPOSED HOUSING OPPORTUNITY ZONE AND THE LOCAL GOVERNMENTAL AND PRIVATE ORGANIZATIONS REPRESENTING SUCH RESIDENTS INCLUDING, BUT NOT LIMITED TO, CONDUCTING AT LEAST ONE PUBLIC HEARING; AND

(VI) SPECIFY GOALS AND OBJECTIVES, BOTH SHORT TERM AND LONG TERM, FOR ADDRESSING THE AFFORDABLE HOUSING NEEDS OF THE PROPOSED ZONE.

S 987. HOUSING OPPORTUNITY ZONE DESIGNATION PLANS. A HOUSING OPPORTUNITY ZONE DESIGNATION PLAN SHALL BE FILED WITH THE COMMISSIONER, AND SHALL DEMONSTRATE THE METHODS BY WHICH THE APPLICANT INTENDS TO MEET THE AFFORDABLE HOUSING NEEDS OF THE AREA IN WHICH THE PROPOSED HOUSING

OPPORTUNITY ZONE IS LOCATED AND SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO:

(A) A DEMONSTRATION OF COMPLIANCE WITH ALL APPLICABLE PROVISIONS OF TITLE VIII OF THE CIVIL RIGHTS ACT OF 1968, AS AMENDED, THE REGULATIONS ISSUED THEREUNDER, AND STATE ANTI-DISCRIMINATION STATUTES, AND SHALL AFFIRMATIVELY FURTHER FAIR HOUSING;

(B) IDENTIFICATION OF FINANCIAL AND OTHER COMMITMENTS THE APPLICANT WILL MAKE TO THE ZONE INCLUDING, BUT NOT LIMITED TO, (I) A STATEMENT IDENTIFYING THOSE LOCAL TAX AND OTHER INCENTIVES PROPOSED TO BE OFFERED WITHIN THE ZONE, (II) A DESCRIPTION OF A PROCEDURE TO EXPEDITE THE ISSUANCE OF ANY REQUIRED LOCAL PERMITS OR LICENSES, AND (III) A DESCRIPTION OF OTHER ACTIVITIES TO BE UNDERTAKEN BY MUNICIPAL AGENCIES, BUSINESS ENTITIES, NOT-FOR-PROFIT CORPORATIONS, COMMUNITY-BASED ORGANIZATIONS OR ANY OTHER PERSONS, WHICH ARE DESIGNED TO PROMOTE THE AVAILABILITY OF AFFORDABLE HOUSING IN THE PROPOSED ZONE;

(C) IDENTIFIED LOCAL INCENTIVES REFERENCED IN SUBDIVISION (B) OF THIS SECTION WHICH MAY INCLUDE, BUT ARE NOT LIMITED TO:

(I) ZONING MODIFICATIONS. A HOUSING OPPORTUNITY ZONE DESIGNATION PLAN MAY INCLUDE MODIFICATIONS TO LOCAL ZONING WITHIN THE BOUNDARIES OF SUCH HOUSING OPPORTUNITY ZONE, WHICH MODIFICATIONS MAY RELATE TO DENSITY, SETBACKS AND OTHER PROVISIONS OF THE LOCAL ZONING ORDINANCE WHICH MAY BE BARRIERS TO THE CONSTRUCTION, CONVERSION OR REHABILITATION OF RESIDENTIAL UNITS PURSUANT TO THIS ARTICLE. ANY ZONING MODIFICATIONS CONTAINED IN A PROPOSED HOUSING OPPORTUNITY ZONE DESIGNATION PLAN MUST BE SET FORTH IN THE SAME MANNER AND DETAIL AS WOULD A LOCAL ZONING ORDINANCE. SUCH ZONING MODIFICATION SHALL APPLY ONLY FOR THE CONSTRUCTION, CONVERSION OR REHABILITATION OF RESIDENTIAL UNITS IN CONFORMANCE WITH THE STANDARDS SET FORTH IN THIS ARTICLE. A PROPOSED HOUSING OPPORTUNITY ZONE DESIGNATION PLAN CONTAINING A ZONING MODIFICATION SHALL NOT BE APPROVED BY THE COMMISSIONER UNLESS THE PROPOSED DESIGNATION PLAN HAS BEEN APPROVED BY ALL LOCAL GOVERNMENTS WHICH PROMULGATED THE ZONING ORDINANCE OR ORDINANCES AFFECTED BY SUCH MODIFICATION.

THE APPLICANT SHALL BE RESPONSIBLE FOR THE PREPARATION OF AN ENVIRONMENTAL IMPACT STATEMENT IF REQUIRED BY LAW. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, MUNICIPALITIES APPLYING FOR APPROVAL OF A HOUSING OPPORTUNITY ZONE DESIGNATION PLAN ARE ELIGIBLE FOR ADVANCES FROM THE HOUSING DEVELOPMENT FUND CREATED PURSUANT TO ARTICLE ELEVEN OF THE PRIVATE HOUSING FINANCE LAW; SUCH ADVANCES MAY BE USED TO DEFRAY THE COST OF PREPARING AN ENVIRONMENTAL IMPACT STATEMENT;

(II) PROPERTY TAX RELIEF. A HOUSING OPPORTUNITY ZONE DESIGNATION PLAN MAY PROVIDE THAT ALL CONSTRUCTION, CONVERSION OR REHABILITATION OF RESIDENTIAL UNITS WITHIN A HOUSING OPPORTUNITY ZONE COMPLETED SUBSEQUENT TO THE APPROVAL OF A HOUSING OPPORTUNITY ZONE DESIGNATION PLAN MAY BE ENTITLED TO AN EXEMPTION FROM PROPERTY TAXES AS PROVIDED FOR IN SECTION FOUR HUNDRED EIGHTY-FIVE-N OF THE REAL PROPERTY TAX LAW FOR AS LONG AS SUCH RESIDENTIAL HOUSING IS COMPOSED OF AT LEAST ONE-THIRD AFFORDABLE HOUSING UNITS AS THAT TERM IS DEFINED IN THIS ARTICLE;

(III) WAIVER OF PERMIT FEES. A HOUSING OPPORTUNITY ZONE DESIGNATION PLAN MAY PROVIDE THAT ALL PERMIT FEES REQUIRED BY THE APPLICANT FOR ANY PHASE OF THE CONSTRUCTION, CONVERSION OR REHABILITATION OF RESIDENTIAL UNITS AS DEFINED IN THIS ARTICLE, WITHIN A HOUSING OPPORTUNITY ZONE SHALL BE WAIVED IN TOTAL BY THE APPLICANT;

(IV) WATER AND SEWER TAX EXEMPTION. WHERE WATER AND/OR SEWER ASSESSMENTS ARE COLLECTED BY AN APPLICANT APPLYING FOR APPROVAL OF A HOUSING OPPORTUNITY ZONE DESIGNATION PLAN, A HOUSING OPPORTUNITY ZONE DESIGNATION PLAN MAY PROVIDE THAT WATER AND/OR SEWER ASSESSMENTS UPON AFFORD-

ABLE HOUSING UNITS BE REDUCED IN AN AMOUNT TO BE SPECIFIED IN THE HOUSING OPPORTUNITY ZONE DESIGNATION PLAN SO LONG AS SUCH UNITS REMAIN AFFORDABLE;

(D) A STATEMENT INDICATING HOW HOUSING OPPORTUNITY ZONE DESIGNATION WOULD ASSIST IN THE AVAILABILITY OF AFFORDABLE HOUSING IN THE AREA IN WHICH THE ZONE IS PROPOSED TO BE LOCATED;

(E) A DESCRIPTION OF PROPOSALS FOR HOUSING CONSTRUCTION, CONVERSION OR REHABILITATION OF RESIDENTIAL UNITS AND INFRASTRUCTURE IMPROVEMENTS AND INVESTMENTS AND A TIMETABLE FOR THEIR COMPLETION;

(F) A STATEMENT OF THE REASONS WHY THE PARTICULAR GEOGRAPHIC CONFIGURATION OF THE ZONE WAS SELECTED.

S 988. LOCAL HOUSING OPPORTUNITY ZONE ADMINISTRATOR. UPON APPROVAL OF THE PLAN, THE DESIGNATED LOCAL HOUSING OPPORTUNITY ZONE ADMINISTRATOR SHALL BE RESPONSIBLE FOR COMPLYING WITH ALL FILING, REPORTING, AND OTHER REQUIREMENTS ON BEHALF OF THE APPLICANT AS SET FORTH IN THIS ARTICLE OR RULES AND REGULATIONS AS PROMULGATED BY THE COMMISSIONER INCLUDING, BUT NOT LIMITED TO:

(A) FILING NOTICE OF APPROVAL OF THE HOUSING OPPORTUNITY ZONE DESIGNATION PLAN OR, REVISIONS OR TERMINATION OF SUCH DESIGNATION PLAN WITH THE DEPARTMENT OF TAXATION AND FINANCE, THE SECRETARY OF STATE, WITH THE COUNTY, CITY, TOWN, OR VILLAGE, RESPECTIVELY, IN WHICH THE HOUSING OPPORTUNITY ZONE IS LOCATED, WITH THE STATE BOARD OF EQUALIZATION AND ASSESSMENT AND WITH OTHER STATE AND LOCAL ENTITIES; PROVIDED, HOWEVER, THAT SUCH NOTICE SHALL SPECIFY THE DATE SUCH ACTION WAS TAKEN AND SHALL CONTAIN A DESCRIPTION SUFFICIENT TO IDENTIFY THE HOUSING OPPORTUNITY ZONE, INCLUDING THE NAMES OF ABUTTING STREETS, ROADS, HIGHWAYS, BODIES OF WATER, OR OTHER IDENTIFYING PHYSICAL FEATURES;

(B) SUBMITTING TO THE COMMISSIONER AN ANNUAL REPORT ON THE PROGRESS AND RESULTS OF THE PLAN, WITH COPIES TO THE DEPARTMENT OF AUDIT AND CONTROL, DEPARTMENT OF TAXATION AND FINANCE AND THE DIRECTOR OF THE BUDGET; AND

(C) EVERY THREE YEARS, RECERTIFYING TO THE COMMISSIONER THAT A NEED FOR THE PLAN CONTINUES TO EXIST. IF THE APPLICANT DOES NOT RECERTIFY THE NEED FOR THE PLAN, THE ZONE AND THE BENEFITS ASSOCIATED THEREWITH MAY BE TERMINATED BY THE COMMISSIONER. TERMINATION OF A ZONE SHALL NOT AFFECT ANY AGREEMENT ENTERED INTO NOR BENEFIT OR INCENTIVE PREVIOUSLY ALLOCATED WITHIN THE ZONE.

S 989. SPECIAL PROVISIONS. (A) EACH APPLICANT SHALL USE ITS BEST EFFORTS TO ENSURE THAT ANY CONSTRUCTION, CONVERSION OR REHABILITATION OF RESIDENTIAL UNITS IS CARRIED OUT IN SUCH A MANNER AS TO MINIMIZE THE LIKELIHOOD OF ANY INVOLUNTARY PHYSICAL OR ECONOMIC DISPLACEMENT OF TENANTS AND OWNERS.

(B) APPLICATIONS FOR FUNDING TO ANY HOUSING PROGRAM ADMINISTERED BY THE STATE OF NEW YORK, A PUBLIC BENEFIT CORPORATION OR A LOCAL GOVERNMENT SHALL BE GIVEN A PREFERENCE IN SELECTION IF THE APPLICATION PROPOSES THE CONSTRUCTION, CONVERSION OR REHABILITATION OF RESIDENTIAL UNITS ELIGIBLE FOR BENEFITS PURSUANT TO THIS ARTICLE.

S 2. The real property tax law is amended by adding a new section 485-n to read as follows:

S 485-N. EXEMPTION FROM LOCAL REAL PROPERTY TAXATION OF CERTAIN RESIDENTIAL PROPERTY LOCATED WITHIN A HOUSING OPPORTUNITY ZONE. 1. REAL PROPERTY LOCATED WITHIN A HOUSING OPPORTUNITY ZONE WHICH HAS BEEN CERTIFIED BY THE HOUSING OPPORTUNITY ZONE ADMINISTRATOR AS A NEWLY CONSTRUCTED, CONVERTED OR REHABILITATED RESIDENTIAL UNIT, AND IN COMPLIANCE WITH AN APPROVED HOUSING OPPORTUNITY ZONE DESIGNATION PLAN PURSUANT TO ARTICLE NINETEEN-AA OF THE GENERAL MUNICIPAL LAW, SHALL BE EXEMPT, IN

WHOLE OR IN PART, FROM TAXATION, SPECIAL AD VALOREM LEVIES AND SPECIAL ASSESSMENTS LEVIED BY OR ON BEHALF OF ANY MUNICIPAL CORPORATION IN WHICH REAL PROPERTY IS LOCATED, PROVIDED THAT THE GOVERNING BOARD OF SUCH MUNICIPAL CORPORATION ADOPTS A LOCAL LAW, ORDINANCE OR RESOLUTION PROVIDING THEREFOR.

SUCH TAX EXEMPTION SHALL APPLY FOR THE PERIOD AND TO THE EXTENT PROVIDED IN SUCH LOCAL LAW, ORDINANCE OR RESOLUTION.

2. NO SUCH EXEMPTION SHALL BE GRANTED UNLESS: (A) A COPY OF AN OFFICIAL NOTICE THAT THE HOUSING OPPORTUNITY ZONE DESIGNATION PLAN HAS BEEN APPROVED PURSUANT TO ARTICLE NINETEEN-AA OF THE GENERAL MUNICIPAL LAW HAS BEEN FILED BY THE LOCAL HOUSING OPPORTUNITY ZONE ADMINISTRATOR WITH THE CLERK OF THE ASSESSING UNIT AND WITH THE STATE BOARD OF EQUALIZATION AND ASSESSMENT ON OR BEFORE THE APPLICABLE TAXABLE STATUS DATE;

(B) THE CONSTRUCTION, CONVERSION OR REHABILITATION OF RESIDENTIAL UNITS COMMENCED ON OR AFTER THE DATE THAT THE HOUSING OPPORTUNITY ZONE DESIGNATION PLAN WAS APPROVED;

(C) THE LOCAL HOUSING OPPORTUNITY ZONE ADMINISTRATOR CERTIFIES TO THE ASSESSOR THAT THE REAL PROPERTY IS ELIGIBLE FOR BENEFITS PURSUANT TO SUCH HOUSING OPPORTUNITY ZONE DESIGNATION PLAN; AND

(D) THE REAL PROPERTY IS USED SOLELY FOR RESIDENTIAL PURPOSES DURING THE PERIOD SUCH EXEMPTION IS GRANTED.

3. SUCH REAL PROPERTY SHALL BE EXEMPT FOR A PERIOD OF YEARS PROVIDED FOR IN THE LOCAL LAW, ORDINANCE OR RESOLUTION AUTHORIZING THE TAX EXEMPTION, AND THE HOUSING OPPORTUNITY ZONE DESIGNATION PLAN, WHICH PERIOD SHALL NOT EXCEED TEN YEARS. SUCH REAL PROPERTY SHALL BE IMMEDIATELY SUBJECT TO TAXATION IF THE ASSESSOR RECEIVES NOTICE FROM THE LOCAL HOUSING OPPORTUNITY ZONE ADMINISTRATOR THAT THE AFFORDABLE HOUSING UNITS, AS DEFINED IN ARTICLE NINETEEN-AA OF THE GENERAL MUNICIPAL LAW, ARE NOT IN CONFORMITY WITH THE PLAN PROPOSED BY THE LOCALITY IN WHICH THEY ARE LOCATED AND APPROVED BY THE COMMISSIONER OF HOUSING AND COMMUNITY RENEWAL TO INSURE THEIR AFFORDABILITY.

4. SUCH EXEMPTION SHALL BE GRANTED ONLY UPON APPLICATION BY THE OWNER OF SUCH REAL PROPERTY ON A FORM PRESCRIBED BY THE STATE BOARD. SUCH APPLICATION SHALL BE FILED WITH THE ASSESSOR OF THE COUNTY, CITY, TOWN OR VILLAGE HAVING THE POWER TO ASSESS PROPERTY FOR TAXATION ON OR BEFORE THE APPROPRIATE TAXABLE STATUS DATE OF SUCH COUNTY, CITY, TOWN OR VILLAGE AND WITHIN ONE YEAR FROM THE DATE OF COMPLETION OF SUCH CONSTRUCTION, CONVERSION OR REHABILITATION OF RESIDENTIAL UNITS.

S 3. Section 490 of the real property tax law, as amended by chapter 87 of the laws of 2001, is amended to read as follows:

S 490. Exemption from special ad valorem levies and special assessments. Real property exempt from taxation pursuant to subdivision two of section four hundred, subdivision one of section four hundred four, subdivision one of section four hundred six, sections four hundred eight, four hundred ten, four hundred ten-a, four hundred ten-b, four hundred eighteen, four hundred twenty-a, four hundred twenty-b, four hundred twenty-two, four hundred twenty-six, four hundred twenty-seven, four hundred twenty-eight, four hundred thirty, four hundred thirty-two, four hundred thirty-four, four hundred thirty-six, four hundred thirty-eight, four hundred fifty, four hundred fifty-two, four hundred fifty-four, four hundred fifty-six, four hundred sixty-four, four hundred seventy-two, four hundred seventy-four [and], four hundred eighty-five AND FOUR HUNDRED EIGHTY-FIVE-N of this [chapter] ARTICLE shall also be exempt from special ad valorem levies and special assessments against real property located outside cities and villages for a special improvement or service or a special district improvement or service and special

ad valorem levies and special assessments imposed by a county improvement district or district corporation except (1) those levied to pay for the costs, including interest and incidental and preliminary costs, of the acquisition, installation, construction, reconstruction and enlargement of or additions to the following improvements, including original equipment, furnishings, machinery or apparatus, and the replacements thereof: water supply and distribution systems; sewer systems (either sanitary or surface drainage or both, including purification, treatment or disposal plants or buildings); waterways and drainage improvements; street, highway, road and parkway improvements (including sidewalks, curbs, gutters, drainage, landscaping, grading or improving the right of way) and (2) special assessments payable in installments on an indebtedness including interest contracted prior to July first, nineteen hundred fifty-three, pursuant to section two hundred forty-two of the town law or pursuant to any other comparable provision of law.

S 4. Section 252-a of the tax law is amended by adding a new subdivision 3 to read as follows:

3. (A) THE FOLLOWING MORTGAGES SHALL BE EXEMPT FROM ANY TAX OR FEE IMPOSED UNDER THIS ARTICLE: ANY MORTGAGE OF REAL PROPERTY GIVEN TO SECURE AN OBLIGATION INCURRED BY THE MORTGAGOR TO ACQUIRE SUCH REAL PROPERTY, PROVIDED THAT (I) SUCH REAL PROPERTY IS IMPROVED BY CONSTRUCTION, CONVERSION OR REHABILITATION OF RESIDENTIAL UNITS, AS THOSE TERMS ARE DEFINED IN ARTICLE NINETEEN-AA OF THE GENERAL MUNICIPAL LAW, AND LOCATED IN A HOUSING OPPORTUNITY ZONE DESIGNATION PLAN APPROVED BY THE COMMISSIONER OF HOUSING AND COMMUNITY RENEWAL PURSUANT TO SUCH ARTICLE, AND (II) SUCH REAL PROPERTY CONTINUES TO BE ELIGIBLE FOR BENEFITS UNDER SUCH ARTICLE.

(B) PROVIDED, HOWEVER, THAT IN EACH CASE WHERE AN EXEMPTION IS CLAIMED UNDER THIS SUBDIVISION, SUCH EXEMPTION SHALL NOT APPLY UNLESS THE PERSON CLAIMING THE EXEMPTION PROVIDES DOCUMENTATION IN A FORMAT APPROVED BY THE COMMISSIONER SUFFICIENT TO ENABLE A RECORDING OFFICER TO DETERMINE AFFIRMATIVELY WHETHER THE MORTGAGE BEING PRESENTED FOR RECORDING IS A MORTGAGE OF REAL PROPERTY WHICH SATISFIES THE REQUIREMENTS SET FORTH IN THIS SUBDIVISION. SUCH DOCUMENTATION MAY TAKE THE FORM OF A CERTIFICATION FROM THE COMMISSIONER OF HOUSING AND COMMUNITY RENEWAL OR SUCH COMMISSIONER'S DELEGATE.

S 5. Subdivision (b) of section 1201 of the tax law is amended by adding a new paragraph (xiii) to read as follows:

(XIII) THE LOCAL LAW IMPOSING THE TAX AUTHORIZED BY THIS SUBDIVISION MAY PROVIDE THAT THE CONVEYANCES EXEMPT PURSUANT TO PARAGRAPH ELEVEN OF SUBDIVISION (B) OF SECTION FOURTEEN HUNDRED FIVE OF THIS CHAPTER SHALL BE EXEMPT FROM THE TAX AUTHORIZED BY THIS SUBDIVISION.

S 6. Subdivision b of section 1203 of the tax law, as amended by chapter 345 of the laws of 1984, is amended to read as follows:

b. Notwithstanding any provision of law to the contrary, the local governing body of the city of Yonkers, by the adoption of local laws, ordinances or resolutions may impose in such city the tax otherwise authorized under subdivision (b) of section twelve hundred one OF THIS PART, at a rate not to exceed three per centum, such taxes to be administered and collected in the manner provided for in subpart A of part III of this article. Such local law, ordinance, or resolution may provide that any transfer of property owned and occupied as a residence by one or more persons, each of whom is sixty-five years of age or over, shall be exempt from such tax. SUCH LOCAL LAW, ORDINANCE OR RESOLUTION ALSO MAY PROVIDE THAT THE CONVEYANCES EXEMPT PURSUANT TO PARAGRAPH ELEV-

EN OF SUBDIVISION (B) OF SECTION FOURTEEN HUNDRED FIVE OF THIS CHAPTER SHALL BE EXEMPT FROM THE TAX AUTHORIZED BY THIS SUBDIVISION.

S 7. Section 1205 of the tax law is amended by adding a new subdivision (c) to read as follows:

(C) THE LOCAL LAW, ORDINANCE OR RESOLUTION IMPOSING THE TAX AUTHORIZED BY THIS SECTION MAY PROVIDE THAT THE CONVEYANCES EXEMPT PURSUANT TO PARAGRAPH ELEVEN OF SUBDIVISION (B) OF SECTION FOURTEEN HUNDRED FIVE OF THIS CHAPTER SHALL BE EXEMPT FROM THE TAX AUTHORIZED BY THIS SECTION.

S 8. Subdivision (b) of section 1405 of the tax law is amended by adding a new paragraph 11 to read as follows:

11. CONVEYANCES OF RESIDENTIAL HOUSING PROVIDED THAT (I) SUCH REAL PROPERTY IS IMPROVED BY CONSTRUCTION, CONVERSION OR REHABILITATION OF RESIDENTIAL UNITS, AS THOSE TERMS ARE DEFINED IN ARTICLE NINETEEN-AA OF THE GENERAL MUNICIPAL LAW, AND LOCATED IN A HOUSING OPPORTUNITY ZONE DESIGNATION PLAN APPROVED BY THE COMMISSIONER OF HOUSING AND COMMUNITY RENEWAL PURSUANT TO SUCH ARTICLE, (II) SUCH REAL PROPERTY CONTINUES TO BE ELIGIBLE FOR BENEFITS UNDER SUCH ARTICLE, AND (III) IN EACH CASE WHERE AN EXEMPTION IS CLAIMED UNDER THIS SUBDIVISION, SUCH EXEMPTION SHALL NOT APPLY UNLESS THE PERSON CLAIMING THE EXEMPTION PROVIDES DOCUMENTATION IN A FORMAT APPROVED BY THE COMMISSIONER SUFFICIENT TO ENABLE A RECORDING OFFICER TO DETERMINE AFFIRMATIVELY WHETHER THE MORTGAGE BEING PRESENTED FOR RECORDING IS A MORTGAGE OF REAL PROPERTY WHICH SATISFIES THE REQUIREMENTS SET FORTH IN THIS SUBDIVISION. SUCH DOCUMENTATION MAY TAKE THE FORM OF A CERTIFICATION FROM THE COMMISSIONER OF HOUSING AND COMMUNITY RENEWAL OR SUCH COMMISSIONER'S DELEGATE.

S 9. Section 1428 of the tax law is amended by adding a new subdivision 3 to read as follows:

3. THE LOCAL LAW IMPOSING THE TAX AUTHORIZED BY THIS ARTICLE MAY PROVIDE THAT THE CONVEYANCES EXEMPT PURSUANT TO PARAGRAPH ELEVEN OF SUBDIVISION (B) OF SECTION FOURTEEN HUNDRED FIVE OF THIS CHAPTER SHALL BE EXEMPT FROM THE TAX.

S 10. This act shall take effect immediately.