

5821

2009-2010 Regular Sessions

I N S E N A T E

June 8, 2009

Introduced by Sen. STEWART-COUSINS -- (at request of the Governor) --
read twice and ordered printed, and when printed to be committed to
the Committee on Rules

AN ACT to amend the general municipal law and the environmental conser-
vation 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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. The general municipal law is amended by adding a new
2 section 6-t to read as follows:
3 S 6-T. COMMUNITY PRESERVATION FUNDS IN TOWNS AND CITIES. 1. AS USED IN
4 THIS SECTION, THE FOLLOWING WORDS AND TERMS SHALL HAVE THE FOLLOWING
5 MEANINGS:
6 (A) "COMMUNITY PRESERVATION" MEANS AND INCLUDES ANY OF THE PURPOSES
7 OUTLINED IN SUBDIVISION FOUR OF THIS SECTION.
8 (B) "COMMUNITY PRESERVATION FUND" OR "FUND" MEANS A COMMUNITY PRESER-
9 VATION FUND ESTABLISHED PURSUANT TO SUBDIVISION TWO OF THIS SECTION.
10 (C) "COMMUNITY PRESERVATION PROJECT PLAN" OR "PLAN" MEANS A COMMUNITY
11 PRESERVATION PROJECT PLAN ESTABLISHED PURSUANT TO SUBDIVISION SIX OF
12 THIS SECTION.
13 (D) "DESIGNATED COMMUNITY" MEANS ANY TOWN OR CITY IN THE STATE WHICH
14 SEEKS TO ESTABLISH OR HAS ESTABLISHED A COMMUNITY PRESERVATION FUND
15 PURSUANT TO THIS SECTION.
16 (E) "TAX" MEANS A REAL ESTATE TRANSFER TAX PAYABLE ON A REAL PROPERTY
17 CONVEYANCE PURSUANT TO ARTICLE THIRTY-C OF THE TAX LAW, UNLESS THE
18 CONTEXT CLEARLY INDICATES A DIFFERENT MEANING.
19 2. THE GOVERNING BODY OF ANY DESIGNATED COMMUNITY IS AUTHORIZED TO
20 ESTABLISH BY LOCAL LAW A COMMUNITY PRESERVATION FUND FOR THE DESIGNATED
21 COMMUNITY PURSUANT TO THE PROVISIONS OF THIS SECTION. DEPOSITS INTO THE

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

LBD12025-06-9

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

15 3. MONEYS IN THE FUND SHALL BE USED EXCLUSIVELY TO: (A) IMPLEMENT A
16 COMMUNITY PRESERVATION PROJECT PLAN IN ACCORDANCE WITH SUBDIVISION SIX
17 OF THIS SECTION; (B) ACQUIRE INTERESTS OR RIGHTS IN REAL PROPERTY FOR
18 THE PRESERVATION OF COMMUNITY CHARACTER WITHIN THE DESIGNATED COMMUNITY
19 IN ACCORDANCE WITH THE COMMUNITY PRESERVATION PROJECT PLAN AND IN COOP-
20 ERATION WITH WILLING SELLERS; (C) ESTABLISH A BANK PURSUANT TO A TRANS-
21 FER OF DEVELOPMENT RIGHTS PROGRAM CONSISTENT WITH SECTION TWO HUNDRED
22 SIXTY-ONE-A OF THE TOWN LAW, OR SECTION TWENTY-F OF THE GENERAL CITY
23 LAW; (D) IMPLEMENT A MANAGEMENT AND STEWARDSHIP PROGRAM FOR THE REAL
24 PROPERTY INTERESTS AND RIGHTS ACQUIRED CONSISTENT WITH SUBDIVISION NINE
25 OF THIS SECTION AND IN ACCORDANCE WITH THE COMMUNITY PRESERVATION
26 PROJECT PLAN, PROVIDED THAT NOT MORE THAN TEN PERCENT OF THE FUND SHALL
27 BE UTILIZED FOR A MANAGEMENT AND STEWARDSHIP PROGRAM; AND (E) MAKE
28 PAYMENTS TO SCHOOL, FIRE, FIRE PROTECTION AND AMBULANCE DISTRICTS IN
29 CONNECTION WITH LANDS WITHIN THE DESIGNATED COMMUNITY THAT ARE OWNED BY
30 ANY MUNICIPAL CORPORATION. PAYMENTS MAY ONLY BE MADE TO A DISTRICT
31 WHERE MORE THAN TWENTY-FIVE PERCENT OF THE ASSESSED VALUE OF THAT
32 DISTRICT IS WHOLLY EXEMPT FROM REAL PROPERTY TAXATION PURSUANT TO THE
33 REAL PROPERTY TAX LAW BECAUSE IT IS OWNED BY A MUNICIPAL CORPORATION.
34 NOT MORE THAN TEN PERCENT OF THE FUND MAY BE USED FOR THIS PURPOSE IN
35 ANY FISCAL YEAR. PAYMENTS FROM THE FUND FOR THIS PURPOSE SHALL NOT
36 EXCEED THE ACTUAL TAX LIABILITY THAT WOULD HAVE BEEN DUE IF THE LANDS OF
37 A MUNICIPAL CORPORATION HAD BEEN SUBJECT TO REAL PROPERTY TAXATION.
38 WHERE MORE THAN ONE DISTRICT IS ELIGIBLE FOR A PAYMENT UNDER THIS SUBDI-
39 VISION, AND THE PAYMENT AVAILABLE FROM THE FUND IS LESS THAN THE ACTUAL
40 TAX LIABILITY THAT WOULD HAVE BEEN DUE IF THE LANDS OF A MUNICIPAL
41 CORPORATION HAD BEEN SUBJECT TO REAL PROPERTY TAXATION, THE DESIGNATED
42 COMMUNITY SHALL APPORTION THE ANNUAL PAYMENT ON THE BASIS OF THE TOTAL
43 TAX LEVIED BY EACH DISTRICT WITHIN THE DESIGNATED COMMUNITY FOR THE YEAR
44 THE PAYMENT IS MADE. PAYMENT FROM THE FUND SHALL BE USED SOLELY TO
45 REDUCE THE PROPERTY TAX LIABILITY OF THE REMAINING TAXPAYERS OF THE
46 DISTRICT WITHIN THE DESIGNATED COMMUNITY. IF THE IMPLEMENTATION OF THE
47 COMMUNITY PRESERVATION PROJECT PLAN ADOPTED BY A GOVERNING BODY AS
48 PROVIDED IN SUBDIVISION SIX OF THIS SECTION HAS BEEN COMPLETED, AND
49 MONEYS ARE NO LONGER NEEDED FOR THE PURPOSES OUTLINED IN THIS SUBDIVI-
50 SION, THEN ANY REMAINING MONIES IN THE FUND MAY BE HELD IN THE FUND FOR
51 PURPOSES OF IMPLEMENTING A FUTURE COMMUNITY PRESERVATION PROJECT PLAN OR
52 MAY BE APPLIED TO REDUCE ANY BONDED INDEBTEDNESS OR OBLIGATIONS INCURRED
53 TO EFFECTUATE THE PURPOSES OF THIS SECTION.

54 4. PRESERVATION OF COMMUNITY CHARACTER SHALL INVOLVE ONE OR MORE OF
55 THE FOLLOWING: (A) ESTABLISHMENT OF PARKS, NATURE PRESERVES, NATURE
56 TRAILS, RECREATION AREAS, COMMUNITY GARDENS AS DEFINED IN SUBDIVISION

1 ONE OF SECTION THIRTY-ONE-G OF THE AGRICULTURE AND MARKETS LAW, OR
2 COMMUNITY FORESTS AS DEFINED IN SUBDIVISION TEN OF SECTION 9-0101 OF THE
3 ENVIRONMENTAL CONSERVATION LAW; (B) PRESERVATION OF OPEN SPACE; (C)
4 PRESERVATION OF LANDS OF EXCEPTIONAL SCENIC VALUE; (D) PRESERVATION OF
5 FRESH AND SALTWATER MARSHES OR OTHER WETLANDS; (E) PRESERVATION OF AQUI-
6 FER RECHARGE AREAS; (F) PRESERVATION OF UNDEVELOPED BEACHLANDS OR SHORE-
7 LINE; (G) ESTABLISHMENT OF WILDLIFE REFUGES FOR THE PURPOSE OF MAINTAIN-
8 ING NATIVE ANIMAL SPECIES DIVERSITY, INCLUDING THE PROTECTION OF HABITAT
9 ESSENTIAL TO THE RECOVERY AND MAINTENANCE OF RARE, THREATENED OR ENDAN-
10 GERED SPECIES; (H) PRESERVATION OF UNIQUE OR THREATENED ECOLOGICAL
11 AREAS; (I) PRESERVATION OF RIVERS AND RIVER AREAS IN A NATURAL,
12 FREE-FLOWING CONDITION; (J) PRESERVATION OF FORESTED LAND; (K) PRESERVA-
13 TION OF PUBLIC ACCESS TO LANDS FOR PUBLIC USE INCLUDING STREAM RIGHTS
14 AND WATERWAYS; (L) PRESERVATION OF HISTORIC PLACES AND PROPERTIES LISTED
15 ON THE NEW YORK STATE REGISTER OF HISTORIC PLACES OR PROTECTED UNDER A
16 MUNICIPAL HISTORIC PRESERVATION ORDINANCE OR LAW; (M) UNDERTAKING ANY OF
17 THE ACTIVITIES LISTED IN THIS SUBDIVISION IN FURTHERANCE OF THE ESTAB-
18 LISHMENT OF A GREENBELT; (N) PRESERVATION OF LAND WHICH IS PREDOMINANTLY
19 VIABLE AGRICULTURAL LAND, AS DEFINED IN SUBDIVISION SEVEN OF SECTION
20 THREE HUNDRED ONE OF THE AGRICULTURE AND MARKETS LAW, OR UNIQUE AND
21 IRREPLACEABLE AGRICULTURAL LAND, AS DEFINED IN SUBDIVISION SIX OF
22 SECTION THREE HUNDRED ONE OF THE AGRICULTURE AND MARKETS LAW; AND (O)
23 PRESERVATION OF LITTORAL AND RIPARIAN AREAS.

24 5. THE GOVERNING BODY OF ANY DESIGNATED COMMUNITY WHICH HAS ESTAB-
25 LISHED A COMMUNITY PRESERVATION FUND SHALL ALSO ESTABLISH AN ADVISORY
26 BOARD TO REVIEW AND MAKE RECOMMENDATIONS TO THE GOVERNING BODY ON
27 PROPOSED ACQUISITIONS OF INTERESTS IN REAL PROPERTY USING MONEYS FROM
28 THE FUND AND ASSIST IN THE DEVELOPMENT OF THE COMMUNITY PRESERVATION
29 PLAN. THE GOVERNING BODY MAY: (A) DESIGNATE AN APPROPRIATE EXISTING
30 BOARD OR BODY, OTHER THAN THE GOVERNING BODY ITSELF, SUCH AS A CONSERVA-
31 TION ADVISORY COUNCIL OR THE LOCAL PLANNING BOARD, TO SERVE AS THE ADVI-
32 SORY BOARD; OR (B) CREATE A SEPARATE BOARD TO SERVE AS AN ADVISORY
33 BOARD. IF A SEPARATE ADVISORY BOARD IS CREATED, THE FOLLOWING REQUIRE-
34 MENTS SHALL BE OBSERVED: (A) THE ADVISORY BOARD SHALL CONSIST OF EITHER
35 FIVE OR SEVEN LEGAL RESIDENTS OF THE DESIGNATED COMMUNITY WHO SHALL
36 SERVE WITHOUT COMPENSATION; (B) A MAJORITY OF THE MEMBERS OF THE ADVI-
37 SORY BOARD SHALL HAVE DEMONSTRATED EXPERIENCE WITH CONSERVATION OR LAND
38 PRESERVATION ACTIVITIES; (C) NO MEMBER OF THE ADVISORY BOARD SHALL ALSO
39 BE A MEMBER OF THE GOVERNING BODY; (D) WHERE A PLAN IS LIKELY TO INCLUDE
40 THE PRESERVATION OF AGRICULTURAL LAND, THE GOVERNING BODY SHALL GIVE DUE
41 CONSIDERATION TO APPOINTING AT LEAST ONE RESIDENT TO THE ADVISORY BOARD
42 WHO IS EITHER (I) AN ACTIVE FARMER, OR (II) WHERE THE DESIGNATED COMMU-
43 NITY IS IN A COUNTY THAT HAS AN AGRICULTURAL AND FARMLAND PROTECTION
44 BOARD ESTABLISHED PURSUANT TO SECTION THREE HUNDRED TWO OF THE AGRICUL-
45 TURE AND MARKETS LAW, A MEMBER OF SUCH BOARD; (E) THE TERMS OF MEMBERS
46 OF THE ADVISORY BOARD FIRST APPOINTED SHALL BE SO FIXED THAT THE TERM OF
47 ONE MEMBER SHALL EXPIRE AT THE END OF THE OFFICIAL YEAR IN WHICH SUCH
48 MEMBERS WERE INITIALLY APPOINTED, THE TERMS OF THE REMAINING MEMBERS
49 FIRST APPOINTED SHALL BE SO FIXED THAT THE TERM OF AT LEAST ONE MEMBER
50 SHALL EXPIRE AT THE END OF EACH OFFICIAL YEAR THEREAFTER, AND AT THE
51 EXPIRATION OF THE TERM OF EACH MEMBER FIRST APPOINTED, HIS OR HER
52 SUCCESSOR SHALL BE APPOINTED FOR A TERM OF FOUR YEARS; AND (F) ANY
53 MEMBER OF THE ADVISORY BOARD MAY BE REMOVED AT THE PLEASURE OF THE
54 GOVERNING BODY, AND ANY VACANCY SHALL BE FILLED IN THE SAME MANNER AS
55 THE APPOINTMENT WAS MADE.

1 6. THE GOVERNING BODY OF ANY DESIGNATED COMMUNITY WHICH HAS ESTAB-
2 LISHED A COMMUNITY PRESERVATION FUND SHALL, BY LOCAL LAW, ADOPT A COMMU-
3 NITY PRESERVATION PROJECT PLAN. THE PLAN MAY BE MADE A PART OF THE
4 DESIGNATED COMMUNITY'S COMPREHENSIVE PLAN. THE PLAN SHALL LIST EVERY
5 PROJECT WHICH THE DESIGNATED COMMUNITY PLANS TO UNDERTAKE WITH MONEYS
6 FROM THE FUND. IT SHALL INCLUDE EVERY PARCEL WHICH IS NECESSARY TO BE
7 ACQUIRED IN THE DESIGNATED COMMUNITY TO PROTECT COMMUNITY CHARACTER. THE
8 PLAN SHALL PROVIDE FOR A DETAILED EVALUATION OF ALL AVAILABLE LAND USE
9 ALTERNATIVES TO PROTECT COMMUNITY CHARACTER, INCLUDING BUT NOT LIMITED
10 TO: (A) FEE SIMPLE ACQUISITION; (B) ZONING REGULATIONS, INCLUDING DENSI-
11 TY REDUCTIONS, CLUSTER DEVELOPMENT, AND SITE PLAN AND DESIGN REQUIRE-
12 MENTS; (C) TRANSFER OF DEVELOPMENT RIGHTS; (D) PURCHASE OF DEVELOPMENT
13 RIGHTS; AND (E) SCENIC AND CONSERVATION EASEMENTS. THE EVALUATION SHALL
14 BE AS SPECIFIC AS PRACTICABLE AS TO EACH PARCEL SELECTED FOR INCLUSION
15 IN THE PLAN. THE PLAN SHALL ESTABLISH PRIORITIES FOR PRESERVATION.
16 MONEYS FROM THE FUND MAY ONLY BE EXPENDED FOR PROJECTS LISTED IN THE
17 PLAN. THE PLAN SHALL BE UPDATED NOT LESS THAN ONCE EVERY FIVE YEARS. A
18 COPY OF THE ADOPTED PLAN SHALL BE FILED WITH THE CLERK OF THE DESIGNATED
19 COMMUNITY AT LEAST SIXTY DAYS BEFORE THE SUBMISSION OF THE MANDATORY
20 REFERENDUM REQUIRED BY SECTION THIRTEEN HUNDRED EIGHTY-SIX OF THE TAX
21 LAW AND SHALL BE MADE AVAILABLE FOR PUBLIC REVIEW AT THE DESIGNATED
22 COMMUNITY CLERK'S OFFICE, AT ANY PUBLIC LIBRARIES WITHIN THE DESIGNATED
23 COMMUNITY, AND, WHERE PRACTICABLE, POSTED ON THE DESIGNATED COMMUNITY'S
24 WEBSITE.

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

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

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

1 FOR HISTORIC PRESERVATION. IN FURTHERING THE PURPOSES OF THIS SECTION,
2 THE DESIGNATED COMMUNITY MAY ENTER INTO AGREEMENTS WITH NOT-FOR-PROFIT
3 CORPORATIONS AND ENGAGE IN LAND TRUST ACTIVITIES TO MANAGE LANDS INCLUD-
4 ING LESS THAN FEE INTERESTS ACQUIRED PURSUANT TO THE PROVISIONS OF THIS
5 SECTION, PROVIDED THAT ANY AGREEMENT SHALL CONTAIN A PROVISION THAT THE
6 CORPORATION KEEP THE LANDS ACCESSIBLE TO THE PUBLIC UNLESS THE CORPO-
7 RATION DEMONSTRATES TO THE SATISFACTION OF THE GOVERNING BODY THAT
8 PUBLIC ACCESSIBILITY WOULD BE DETRIMENTAL TO THE LANDS OR ANY OF THE
9 NATURAL RESOURCES ASSOCIATED WITH THE LANDS. NOTWITHSTANDING ANY OTHER
10 PROVISION OF THIS SUBDIVISION, THERE SHALL BE NO RIGHT TO PUBLIC USE AND
11 ENJOYMENT OF LAND USED IN CONJUNCTION WITH A FARM OPERATION AS DEFINED
12 BY SUBDIVISION ELEVEN OF SECTION THREE HUNDRED ONE OF THE AGRICULTURE
13 AND MARKETS LAW UNLESS THE OWNER OR OPERATOR OF THE FARM OPERATION
14 PERMITS PUBLIC USE, IN WRITING.

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

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

54 S 2. Section 9-0101 of the environmental conservation law is amended
55 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

SECTION 1385. DEFINITIONS.

1386. IMPOSITION OF TAX.

1387. LIABILITY FOR TAX.

1388. PAYMENT OF TAX.

1389. EXEMPTIONS.

1390. CREDIT.

1391. COOPERATIVE HOUSING CORPORATION TRANSFERS.

1392. DESIGNATION OF AGENTS.

1393. LIABILITY OF RECORDING OFFICER.

1394. REFUNDS.

1395. DEPOSIT AND DISPOSITION OF REVENUE.

1396. JUDICIAL REVIEW.

1397. APPORTIONMENT.

1398. MISCELLANEOUS.

1399. RETURNS TO BE CONFIDENTIAL.

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

1 INTEREST THEREIN, THE VALUE OF ANY AMOUNT PAID FOR AN OPTION TO PURCHASE
2 OR RENEW AND THE VALUE OF RENTAL OR OTHER PAYMENTS ATTRIBUTABLE TO THE
3 EXERCISE OF ANY OPTION TO RENEW.

4 (2) IN THE CASE OF A CREATION OF A SUBLEASEHOLD INTEREST, CONSIDER-
5 ATION SHALL INCLUDE, BUT NOT BE LIMITED TO, THE VALUE OF THE SUBLEASE
6 RENTAL PAYMENTS ATTRIBUTABLE TO THE USE AND OCCUPANCY OF THE REAL PROP-
7 ERTY, THE VALUE OF ANY AMOUNT PAID FOR AN OPTION TO RENEW AND THE VALUE
8 OF RENTAL OR OTHER PAYMENTS ATTRIBUTABLE TO THE EXERCISE OF ANY OPTION
9 TO RENEW LESS THE VALUE OF THE REMAINING PRIME LEASE RENTAL PAYMENTS
10 REQUIRED TO BE MADE.

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

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

21 (5) IN THE CASE OF (A) THE ORIGINAL CONVEYANCE OF SHARES OF STOCK IN A
22 COOPERATIVE HOUSING CORPORATION IN CONNECTION WITH THE GRANT OR TRANSFER
23 OF A PROPRIETARY LEASEHOLD BY THE COOPERATIVE CORPORATION OR COOPERATIVE
24 PLAN SPONSOR, AND (B) THE SUBSEQUENT CONVEYANCE BY THE OWNER THEREOF OF
25 SUCH STOCK IN A COOPERATIVE HOUSING CORPORATION IN CONNECTION WITH THE
26 GRANT OR TRANSFER OF A PROPRIETARY LEASEHOLD FOR A COOPERATIVE UNIT
27 OTHER THAN AN INDIVIDUAL RESIDENTIAL UNIT, CONSIDERATION SHALL INCLUDE A
28 PROPORTIONATE SHARE OF THE UNPAID PRINCIPAL OF ANY MORTGAGE ON THE REAL
29 PROPERTY OF THE COOPERATIVE HOUSING CORPORATION COMPRISING THE COOPER-
30 ATIVE DWELLING OR DWELLINGS. SUCH SHARE SHALL BE DETERMINED BY MULTIPLY-
31 ING THE TOTAL UNPAID PRINCIPAL OF THE MORTGAGE BY A FRACTION, THE NUMER-
32 ATOR OF WHICH SHALL BE THE NUMBER OF SHARES OF STOCK BEING CONVEYED IN
33 THE COOPERATIVE HOUSING CORPORATION IN CONNECTION WITH THE GRANT OR
34 TRANSFER OF A PROPRIETARY LEASEHOLD AND THE DENOMINATOR OF WHICH SHALL
35 BE THE TOTAL NUMBER OF SHARES OF STOCK IN THE COOPERATIVE HOUSING CORPO-
36 RATION.

37 (E) "CONVEYANCE" MEANS THE TRANSFER OR TRANSFERS OF ANY INTEREST IN
38 REAL PROPERTY BY ANY METHOD, INCLUDING BUT NOT LIMITED TO, SALE,
39 EXCHANGE, ASSIGNMENT, SURRENDER, MORTGAGE FORECLOSURE, TRANSFER IN LIEU
40 OF FORECLOSURE, OPTION, TRUST INDENTURE, TAKING BY EMINENT DOMAIN,
41 CONVEYANCE UPON LIQUIDATION OR BY A RECEIVER, OR TRANSFER OR ACQUISITION
42 OF A CONTROLLING INTEREST IN ANY ENTITY WITH AN INTEREST IN REAL PROPER-
43 TY. TRANSFER OF AN INTEREST IN REAL PROPERTY SHALL INCLUDE THE CREATION
44 OF A LEASEHOLD OR SUBLEASE ONLY WHERE (1) THE SUM OF THE TERM OF THE
45 LEASE OR SUBLEASE AND ANY OPTIONS FOR RENEWAL EXCEEDS FORTY-NINE YEARS,
46 (2) SUBSTANTIAL CAPITAL IMPROVEMENTS ARE OR MAY BE MADE BY OR FOR THE
47 BENEFIT OF THE LESSEE OR SUBLESSEE, AND (3) THE LEASE OR SUBLEASE IS FOR
48 SUBSTANTIALLY ALL OF THE PREMISES CONSTITUTING THE REAL PROPERTY.
49 NOTWITHSTANDING THE FOREGOING PROVISIONS OF THIS SUBSECTION, CONVEYANCE
50 OF REAL PROPERTY SHALL NOT INCLUDE A CONVEYANCE MADE PURSUANT TO DEVISE,
51 BEQUEST OR INHERITANCE; THE CREATION, MODIFICATION, EXTENSION, SPREAD-
52 ING, SEVERANCE, CONSOLIDATION, ASSIGNMENT, TRANSFER, RELEASE OR SATIS-
53 FACTION OF A MORTGAGE; A MORTGAGE SUBORDINATION AGREEMENT, A MORTGAGE
54 SEVERANCE AGREEMENT, AN INSTRUMENT GIVEN TO PERFECT OR CORRECT A
55 RECORDED MORTGAGE; OR A RELEASE OF LIEN OF TAX PURSUANT TO THIS CHAPTER
56 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

1 CONVEYANCE OCCURRING ON OR AFTER THE FIRST DAY OF A MONTH TO BE DESIG-
2 NATED BY THE GOVERNING BODY, WHICH IS NOT LESS THAN SIXTY DAYS AFTER THE
3 ENACTMENT OF THE LOCAL LAW, BUT SHALL NOT APPLY TO CONVEYANCES MADE ON
4 OR AFTER THAT DATE PURSUANT TO BINDING WRITTEN CONTRACTS ENTERED INTO
5 PRIOR TO THAT DATE, PROVIDED THAT THE DATE OF EXECUTION OF THE CONTRACT
6 IS CONFIRMED BY INDEPENDENT EVIDENCE SUCH AS THE RECORDING OF THE
7 CONTRACT, PAYMENT OF A DEPOSIT OR OTHER FACTS AND CIRCUMSTANCES AS
8 DETERMINED BY THE TREASURER.

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

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

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

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

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

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

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

55 (1) THE STATE OF NEW YORK, OR ANY OF ITS AGENCIES, INSTRUMENTALITIES,
56 POLITICAL SUBDIVISIONS, OR PUBLIC CORPORATIONS (INCLUDING A PUBLIC

1 CORPORATION CREATED PURSUANT TO AN AGREEMENT OR COMPACT WITH ANOTHER
2 STATE OR THE DOMINION OF CANADA); AND
3 (2) THE UNITED NATIONS, OR THE UNITED STATES OF AMERICA OR ANY OF ITS
4 AGENCIES OR INSTRUMENTALITIES.
5 (B) THE TAX SHALL NOT APPLY TO ANY OF THE FOLLOWING CONVEYANCES:
6 (1) CONVEYANCES TO THE UNITED NATIONS, THE UNITED STATES OF AMERICA,
7 THE STATE OF NEW YORK, OR ANY OF THEIR INSTRUMENTALITIES, AGENCIES OR
8 POLITICAL SUBDIVISIONS OR ANY PUBLIC CORPORATION (INCLUDING A PUBLIC
9 CORPORATION CREATED PURSUANT TO AGREEMENT OR COMPACT WITH ANOTHER STATE
10 OR THE DOMINION OF CANADA);
11 (2) CONVEYANCES WHICH ARE OR WERE USED TO SECURE A DEBT OR OTHER OBLI-
12 GATION;
13 (3) CONVEYANCES WHICH, WITHOUT ADDITIONAL CONSIDERATION, CONFIRM,
14 CORRECT, MODIFY OR SUPPLEMENT A DEED PREVIOUSLY RECORDED;
15 (4) CONVEYANCES OF REAL PROPERTY WITHOUT CONSIDERATION AND OTHERWISE
16 THAN IN CONNECTION WITH A SALE, INCLUDING DEEDS CONVEYING REALTY AS BONA
17 FIDE GIFTS;
18 (5) CONVEYANCES GIVEN IN CONNECTION WITH A TAX SALE;
19 (6) CONVEYANCES TO EFFECTUATE A MERE CHANGE OF IDENTITY OR FORM OF
20 OWNERSHIP OR ORGANIZATION WHERE THERE IS NO CHANGE IN BENEFICIAL OWNER-
21 SHIP, OTHER THAN CONVEYANCES TO A COOPERATIVE HOUSING CORPORATION OF THE
22 REAL PROPERTY COMPRISING THE COOPERATIVE DWELLING OR DWELLINGS;
23 (7) CONVEYANCES WHICH CONSIST OF A DEED OF PARTITION;
24 (8) CONVEYANCES GIVEN PURSUANT TO THE FEDERAL BANKRUPTCY ACT;
25 (9) CONVEYANCES OF REAL PROPERTY WHICH CONSIST OF THE EXECUTION OF A
26 CONTRACT TO SELL REAL PROPERTY WITHOUT THE USE OR OCCUPANCY OF SUCH
27 PROPERTY OR THE GRANTING OF AN OPTION TO PURCHASE REAL PROPERTY WITHOUT
28 THE USE OR OCCUPANCY OF SUCH PROPERTY;
29 (10) CONVEYANCES OF REAL PROPERTY FOR OPEN SPACE, PARKS, OR HISTORIC
30 PRESERVATION PURPOSES TO ANY NOT-FOR-PROFIT TAX EXEMPT CORPORATION OPER-
31 ATED FOR CONSERVATION, ENVIRONMENTAL, PARKS OR HISTORIC PRESERVATION
32 PURPOSES; AND
33 (11) CONVEYANCES OF REAL PROPERTY WHERE THE PROPERTY IS PREDOMINANTLY
34 VIABLE AGRICULTURAL LAND AS DEFINED IN SUBDIVISION SEVEN OF SECTION
35 THREE HUNDRED ONE OF THE AGRICULTURE AND MARKETS LAW, AND THE ENTIRE
36 PROPERTY TO BE CONVEYED IS SUBJECT TO A DEVELOPMENT RESTRICTION,
37 PROVIDED THAT THE DEVELOPMENT RESTRICTION PRECLUDES THE CONVERSION OF
38 THE PROPERTY TO A NON-AGRICULTURAL USE AND THAT THE DEVELOPMENT
39 RESTRICTION IS EVIDENCED BY AN EASEMENT, AGREEMENT, OR OTHER SUITABLE
40 INSTRUMENT WHICH IS TO BE CONVEYED TO THE MUNICIPALITY SIMULTANEOUSLY
41 WITH THE CONVEYANCE OF THE REAL PROPERTY.
42 (C) AN EXEMPTION FROM THE TAX WHICH IS EQUAL TO THE MEDIAN SALES PRICE
43 OF RESIDENTIAL REAL PROPERTY WITHIN THE APPLICABLE TOWN OR CITY, AS
44 DETERMINED BY THE OFFICE OF REAL PROPERTY SERVICES PURSUANT TO PROCE-
45 DURES ADOPTED FOR THIS PURPOSE BY THE STATE BOARD OF REAL PROPERTY
46 SERVICES ESTABLISHED PURSUANT TO ARTICLE TWO OF THE REAL PROPERTY TAX
47 LAW, SHALL BE ALLOWED ON THE CONSIDERATION OF THE CONVEYANCE OF IMPROVED
48 OR UNIMPROVED REAL PROPERTY OR AN INTEREST THEREIN.
49 S 1390. CREDIT. A BUYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX DUE
50 ON A CONVEYANCE OF REAL PROPERTY TO THE EXTENT THE TAX WAS PAID BY THE
51 BUYER ON A PRIOR CREATION OF A LEASEHOLD OF ALL OR A PORTION OF THE SAME
52 REAL PROPERTY OR ON THE GRANTING OF AN OPTION OR CONTRACT TO PURCHASE
53 ALL OR A PORTION OF THE SAME REAL PROPERTY BY THE BUYER. SUCH CREDIT
54 SHALL BE COMPUTED BY MULTIPLYING THE TAX PAID ON THE CREATION OF THE
55 LEASEHOLD OR ON THE GRANTING OF THE OPTION OR CONTRACT BY A FRACTION,
56 THE NUMERATOR OF WHICH IS THE VALUE OF THE CONSIDERATION USED TO COMPUTE

1 SUCH TAX PAID WHICH IS NOT YET DUE TO SUCH SELLER ON THE DATE OF THE
2 SUBSEQUENT CONVEYANCE (AND WHICH SUCH SELLER WILL NOT BE ENTITLED TO
3 RECEIVE AFTER SUCH DATE), AND THE DENOMINATOR OF WHICH IS THE TOTAL
4 VALUE OF THE CONSIDERATION USED TO COMPUTE SUCH TAX PAID.

5 S 1391. COOPERATIVE HOUSING CORPORATION TRANSFERS. (A) NOTWITHSTANDING
6 THE DEFINITION OF "CONTROLLING INTEREST" CONTAINED IN SUBSECTION (B) OF
7 SECTION THIRTEEN HUNDRED EIGHTY-FIVE OF THIS ARTICLE OR ANYTHING TO THE
8 CONTRARY CONTAINED IN SUBSECTION (E) OF SUCH SECTION, THE TAX IMPOSED
9 PURSUANT TO THIS ARTICLE SHALL APPLY TO (1) THE ORIGINAL CONVEYANCE OF
10 SHARES OF STOCK IN A COOPERATIVE HOUSING CORPORATION IN CONNECTION WITH
11 THE GRANT OR TRANSFER OF A PROPRIETARY LEASEHOLD BY THE COOPERATIVE
12 CORPORATION OR COOPERATIVE PLAN SPONSOR, AND (2) THE SUBSEQUENT CONVEY-
13 ANCE OF THE STOCK IN A COOPERATIVE HOUSING CORPORATION IN CONNECTION
14 WITH THE GRANT OR TRANSFER OF A PROPRIETARY LEASEHOLD BY THE OWNER THERE-
15 OF. WITH RESPECT TO ANY SUBSEQUENT CONVEYANCE WHERE THE PROPERTY IS AN
16 INDIVIDUAL RESIDENTIAL UNIT, THE CONSIDERATION FOR THE INTEREST CONVEYED
17 SHALL EXCLUDE THE VALUE OF ANY LIENS ON CERTIFICATES OF STOCK OR OTHER
18 EVIDENCES OF AN OWNERSHIP INTEREST IN AND A PROPRIETARY LEASE FROM A
19 CORPORATION OR PARTNERSHIP FORMED FOR THE PURPOSE OF COOPERATIVE OWNER-
20 SHIP OF RESIDENTIAL INTEREST IN REAL ESTATE REMAINING THEREON AT THE
21 TIME OF CONVEYANCE. IN DETERMINING THE TAX ON A CONVEYANCE DESCRIBED IN
22 PARAGRAPH ONE OF THIS SUBSECTION, A CREDIT SHALL BE ALLOWED FOR A
23 PROPORTIONATE PART OF THE AMOUNT OF ANY TAX PAID UPON THE CONVEYANCE TO
24 THE COOPERATIVE HOUSING CORPORATION OF THE REAL PROPERTY COMPRISING THE
25 COOPERATIVE DWELLING OR DWELLINGS TO THE EXTENT THAT SUCH CONVEYANCE
26 EFFECTUATED A MERE CHANGE OF IDENTITY OR FORM OF OWNERSHIP OF SUCH PROP-
27 erty AND NOT A CHANGE IN THE BENEFICIAL OWNERSHIP OF SUCH PROPERTY. THE
28 AMOUNT OF THE CREDIT SHALL BE DETERMINED BY MULTIPLYING THE AMOUNT OF
29 TAX PAID UPON THE CONVEYANCE TO THE COOPERATIVE HOUSING CORPORATION BY A
30 PERCENTAGE REPRESENTING THE EXTENT TO WHICH THE CONVEYANCE EFFECTUATED A
31 MERE CHANGE OF IDENTITY OR FORM OF OWNERSHIP AND NOT A CHANGE IN THE
32 BENEFICIAL OWNERSHIP OF THE PROPERTY, AND THEN MULTIPLYING THE RESULTING
33 PRODUCT BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE NUMBER OF
34 SHARES OF STOCK CONVEYED IN A TRANSACTION DESCRIBED IN PARAGRAPH ONE OF
35 THIS SUBSECTION, AND THE DENOMINATOR OF WHICH SHALL BE THE TOTAL NUMBER
36 OF SHARES OF STOCK OF THE COOPERATIVE HOUSING CORPORATION (INCLUDING ANY
37 STOCK HELD BY THE CORPORATION). IN NO EVENT, HOWEVER, SHALL SUCH CREDIT
38 REDUCE THE TAX ON A CONVEYANCE DESCRIBED IN PARAGRAPH ONE OF THIS
39 SUBSECTION BELOW ZERO, NOR SHALL ANY SUCH CREDIT BE ALLOWED FOR A TAX
40 PAID MORE THAN TWENTY-FOUR MONTHS PRIOR TO THE DATE ON WHICH OCCURS THE
41 FIRST IN A SERIES OF CONVEYANCES OF SHARES OF STOCK IN AN OFFERING OF
42 COOPERATIVE HOUSING CORPORATION SHARES DESCRIBED IN PARAGRAPH ONE OF
43 THIS SUBSECTION.

44 (B) EVERY COOPERATIVE HOUSING CORPORATION SHALL BE REQUIRED TO FILE AN
45 INFORMATION RETURN WITH THE TREASURER BY JULY FIFTEENTH OF EACH YEAR
46 COVERING THE PRECEDING PERIOD OF JANUARY FIRST THROUGH JUNE THIRTIETH
47 AND BY JANUARY FIFTEENTH OF EACH YEAR COVERING THE PRECEDING PERIOD OF
48 JULY FIRST THROUGH DECEMBER THIRTY-FIRST. THE RETURN SHALL CONTAIN SUCH
49 INFORMATION REGARDING THE CONVEYANCE OF SHARES OF STOCK IN THE COOPER-
50 ATIVE HOUSING CORPORATION AS THE TREASURER MAY DEEM NECESSARY, INCLUD-
51 ING, BUT NOT LIMITED TO, THE NAMES, ADDRESSES AND EMPLOYEE IDENTIFICA-
52 TION NUMBERS OR SOCIAL SECURITY NUMBERS OF THE SELLER AND THE BUYER, THE
53 NUMBER OF SHARES CONVEYED, THE DATE OF THE CONVEYANCE AND THE CONSIDER-
54 ATION PAID FOR SUCH CONVEYANCE.

55 S 1392. DESIGNATION OF AGENTS. THE TREASURER IS AUTHORIZED TO DESIG-
56 NATE 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 THEREFOR 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 UNDERTAKING, 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 APPLICATION.

(B) 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 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 COMMUNITY, PURSUANT TO THIS ARTICLE, SHALL PROVIDE FOR A METHOD OF APPORTIONMENT FOR DETERMINING THE AMOUNT OF TAX DUE WHENEVER THE REAL PROPERTY OR INTEREST THEREIN IS SITUATED WITHIN AND WITHOUT THE DESIGNATED COMMUNITY.

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.

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

12 (B) THE OFFICERS CHARGED WITH THE CUSTODY OF SUCH RETURNS SHALL NOT BE
13 REQUIRED TO PRODUCE ANY OF THEM OR EVIDENCE OF ANYTHING CONTAINED IN
14 THEM IN ANY ACTION OR PROCEEDING IN ANY COURT, EXCEPT ON BEHALF OF THE
15 COUNTY OR DESIGNATED COMMUNITY IN ANY ACTION OR PROCEEDING INVOLVING THE
16 COLLECTION OF A TAX DUE UNDER A LOCAL LAW ENACTED PURSUANT TO THIS ARTI-
17 CLE TO WHICH THE COUNTY OR DESIGNATED COMMUNITY IS A PARTY, OR A CLAIM-
18 ANT, OR ON BEHALF OF ANY PARTY TO ANY ACTION OR PROCEEDING UNDER THE
19 PROVISIONS OF A LOCAL LAW ENACTED PURSUANT TO THIS ARTICLE WHEN THE
20 RETURNS OR FACTS SHOWN THEREBY ARE DIRECTLY INVOLVED IN THE ACTION OR
21 PROCEEDING, IN ANY OF WHICH EVENTS THE COURT MAY REQUIRE THE PRODUCTION
22 OF, AND MAY ADMIT IN EVIDENCE, SO MUCH OF THE RETURNS OR OF THE FACTS
23 SHOWN THEREBY, AS ARE PERTINENT TO THE ACTION OR PROCEEDING AND NO MORE.

24 (C) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT THE DELIV-
25 ERY TO A SELLER OR BUYER OF AN INSTRUMENT EFFECTING A CONVEYANCE OR THE
26 DULY AUTHORIZED REPRESENTATIVE OF A SELLER OR BUYER OF A CERTIFIED COPY
27 OF ANY RETURN FILED IN CONNECTION WITH THAT INSTRUMENT OR TO PROHIBIT
28 THE PUBLICATION OF STATISTICS SO CLASSIFIED AS TO PREVENT THE IDENTIFI-
29 CATION OF PARTICULAR RETURNS AND THE ITEMS THEREOF, OR THE INSPECTION BY
30 THE LEGAL REPRESENTATIVES OF THE COUNTY OR DESIGNATED COMMUNITY OF THE
31 RETURN OF ANY TAXPAYER WHO SHALL BRING ACTION TO SET ASIDE OR REVIEW THE
32 TAX BASED THEREON.

33 S 4. This act shall take effect immediately.