

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

8571

2009-2010 Regular Sessions

I N A S S E M B L Y

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:

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
22 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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1 ABLE SOURCES APPROVED BY THE GOVERNING BODY AND SHALL INCLUDE, AT A
2 MINIMUM, ALL REVENUES FROM THE TAX IMPOSED UPON THE TRANSFER OF REAL
3 PROPERTY INTERESTS IN SUCH DESIGNATED COMMUNITY PURSUANT TO ARTICLE
4 THIRTY-C OF THE TAX LAW. THE FUND SHALL ALSO BE AUTHORIZED TO ACCEPT
5 GIFTS OF MONEY OR INTERESTS IN LAND. INTEREST ACCRUED BY MONEYS DEPOSIT-
6 ED INTO THE FUND SHALL BE CREDITED TO THE FUND. IN NO EVENT SHALL MONEYS
7 DEPOSITED IN THE FUND BE TRANSFERRED TO ANY OTHER ACCOUNT OR USED FOR
8 ANY PURPOSE OTHER THAN AUTHORIZED BY THIS SECTION. NOTHING CONTAINED IN
9 THIS SECTION SHALL BE CONSTRUED TO PREVENT THE FINANCING IN WHOLE OR IN
10 PART, PURSUANT TO THE LOCAL FINANCE LAW, OF ANY ACQUISITION AUTHORIZED
11 PURSUANT TO THIS SECTION. MONEYS FROM THE FUND MAY BE UTILIZED TO REPAY
12 ANY INDEBTEDNESS OR OBLIGATIONS INCURRED PURSUANT TO THE LOCAL FINANCE
13 LAW CONSISTENT WITH EFFECTUATING THE PURPOSES OF THIS SECTION.

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

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

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

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

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

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

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

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

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

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

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

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

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

54 10. "COMMUNITY FOREST" MEANS FOREST LAND, OR AN INTEREST IN FOREST
55 LAND, OWNED AND MANAGED BY A MUNICIPALITY FOR THE BENEFIT OF ITS RESI-
56 DENTS.

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 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

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

5 (G) "SELLER" MEANS THE PERSON MAKING THE CONVEYANCE OF REAL PROPERTY
6 OR INTEREST THEREIN. WHERE THE CONVEYANCE CONSISTS OF A TRANSFER OR AN
7 ACQUISITION OF A CONTROLLING INTEREST IN AN ENTITY WITH AN INTEREST IN
8 REAL PROPERTY, "SELLER" MEANS THE ENTITY WITH AN INTEREST IN REAL PROP-
9 ERTY OR A SHAREHOLDER OR PARTNER TRANSFERRING STOCK OR PARTNERSHIP
10 INTEREST, RESPECTIVELY.

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

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

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

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

21 (L) "TREASURER" MEANS THE COUNTY TREASURER.

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

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

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

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

33 (3) THE TRANSFER REPORT FORM INDICATES THAT THE PROPERTY IS A RESIDEN-
34 TIAL CONDOMINIUM.

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

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

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

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

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

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

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

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

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

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

52 (1) THE STATE OF NEW YORK, OR ANY OF ITS AGENCIES, INSTRUMENTALITIES,
53 POLITICAL SUBDIVISIONS, OR PUBLIC CORPORATIONS (INCLUDING A PUBLIC
54 CORPORATION CREATED PURSUANT TO AN AGREEMENT OR COMPACT WITH ANOTHER
55 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

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

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

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

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

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

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

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

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

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

33 (C) THE TREASURER, AFTER RESERVING THESE REFUNDS, SHALL ON OR BEFORE
34 THE TWELFTH DAY OF EACH MONTH PAY TO THE DESIGNATED COMMUNITY THE TAXES,
35 PENALTIES, AND INTEREST IMPOSED BY THE DESIGNATED COMMUNITY UNDER THE
36 AUTHORITY OF SECTION THIRTEEN HUNDRED EIGHTY-SIX OF THIS ARTICLE,
37 COLLECTED BY THE TREASURER, DURING THE PRECEDING CALENDAR MONTH. THE
38 AMOUNT PAYABLE SHALL BE CERTIFIED TO THE DESIGNATED COMMUNITY BY THE
39 TREASURER, WHO SHALL NOT BE HELD LIABLE FOR ANY UNINTENTIONAL INACCURACY
40 IN THE CERTIFICATION. PROVIDED, HOWEVER, ANY CERTIFICATION MAY BE BASED
41 ON INFORMATION AS MAY BE AVAILABLE TO THE TREASURER AT THE TIME THE
42 CERTIFICATION MUST BE MADE UNDER THIS SECTION. WHERE THE AMOUNT PAID
43 OVER TO THE DESIGNATED COMMUNITY IN ANY MONTH IS MORE OR LESS THAN THE
44 AMOUNT DUE TO THE DESIGNATED COMMUNITY, THE AMOUNT OF THE OVERPAYMENT OR
45 UNDERPAYMENT SHALL BE CERTIFIED TO THE DESIGNATED COMMUNITY BY THE TREA-
46 SURER, WHO SHALL NOT BE HELD LIABLE FOR ANY UNINTENTIONAL INACCURACY IN
47 THE CERTIFICATION. THE AMOUNT OF THE OVERPAYMENT OR UNDERPAYMENT SHALL
48 BE CERTIFIED TO THE DESIGNATED COMMUNITY AS SOON AFTER THE DISCOVERY OF
49 THE OVERPAYMENT OR UNDERPAYMENT AS REASONABLY POSSIBLE AND SUBSEQUENT
50 PAYMENTS BY THE TREASURER TO THE DESIGNATED COMMUNITY SHALL BE ADJUSTED
51 BY SUBTRACTING THE AMOUNT OF ANY OVERPAYMENT FROM OR BY ADDING THE
52 AMOUNT OF ANY UNDERPAYMENT TO SUBSEQUENT PAYMENTS AS THE TREASURER AND
53 DESIGNATED COMMUNITY CONSIDER REASONABLE IN VIEW OF THE OVERPAYMENT OR
54 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.