

9168

I N A S S E M B L Y

March 25, 2014

Introduced by M. of A. NOJAY -- read once and referred to the Committee
on Ways and Means

AN ACT to amend the tax law, in relation to authorizing an additional
real estate transfer tax within the county of Livingston and authoriz-
ing such county to expend such real estate transfer tax on necessary
county services; and providing for the repeal of such provisions upon
expiration thereof

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

1 Section 1. The tax law is amended by adding a new article 31-H to read
2 as follows:

3 ARTICLE 31-H

4 TAX ON REAL ESTATE TRANSFERS

5 IN THE COUNTY OF LIVINGSTON

6 SECTION 1449-AAAAAA. DEFINITIONS.

7 1449-BBBBBB. IMPOSITION OF TAX.

8 1449-CCCCCC. PAYMENT OF TAX.

9 1449-DDDDDD. LIABILITY FOR TAX.

10 1449-EEEEEE. EXEMPTIONS.

11 1449-FFFFFF. CREDIT.

12 1449-GGGGGG. COOPERATIVE HOUSING CORPORATION TRANSFERS.

13 1449-HHHHHH. DESIGNATION OF AGENTS.

14 1449-IIIIII. LIABILITY OF RECORDING OFFICER.

15 1449-JJJJJJ. REFUNDS.

16 1449-KKKKKK. DEPOSIT AND DISPOSITION OF REVENUE.

17 1449-LLLLLL. JUDICIAL REVIEW.

18 1449-MMMMMM. APPORTIONMENT.

19 1449-NNNNNN. MISCELLANEOUS.

20 1449-OOOOOO. RETURNS TO BE SECRET.

21 S 1449-AAAAAA. DEFINITIONS. WHEN USED IN THIS ARTICLE, UNLESS OTHER-
22 WISE EXPRESSLY STATED:

23 1. "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, SOCIETY, ASSOCIATION,
24 JOINT STOCK COMPANY, CORPORATION, ESTATE, RECEIVER, TRUSTEE, ASSIGNEE,
25 REFEREE OR ANY OTHER PERSON ACTING IN A FIDUCIARY OR REPRESENTATIVE

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

LBD04050-01-3

1 CAPACITY, WHETHER APPOINTED BY A COURT OR OTHERWISE, ANY COMBINATION OF
2 INDIVIDUALS, AND ANY OTHER FORM OF UNINCORPORATED ENTERPRISE OWNED OR
3 CONDUCTED BY TWO OR MORE PERSONS.

4 2. "CONTROLLING INTEREST" MEANS (A) IN THE CASE OF A CORPORATION,
5 EITHER FIFTY PERCENT OR MORE OF THE TOTAL COMBINED VOTING POWER OF ALL
6 CLASSES OF STOCK OF SUCH CORPORATION, OR FIFTY PERCENT OR MORE OF THE
7 CAPITAL, PROFITS OR BENEFICIAL INTEREST IN SUCH VOTING STOCK OF SUCH
8 CORPORATION, AND (B) IN THE CASE OF A PARTNERSHIP, ASSOCIATION, TRUST OR
9 OTHER ENTITY, FIFTY PERCENT OR MORE OF THE CAPITAL, PROFITS OR BENEFI-
10 CIAL INTEREST IN SUCH PARTNERSHIP, ASSOCIATION, TRUST OR OTHER ENTITY.

11 3. "REAL PROPERTY" MEANS EVERY ESTATE OR RIGHT, LEGAL OR EQUITABLE,
12 PRESENT OR FUTURE, VESTED OR CONTINGENT, IN LANDS, TENEMENTS OR HEREDI-
13 TMENTS, INCLUDING BUILDINGS, STRUCTURES AND OTHER IMPROVEMENTS THEREON,
14 WHICH ARE LOCATED IN WHOLE OR IN PART WITHIN THE COUNTY OF LIVINGSTON.
15 IT SHALL NOT INCLUDE RIGHTS TO SEPULTURE.

16 4. "CONSIDERATION" MEANS THE PRICE ACTUALLY PAID OR REQUIRED TO BE
17 PAID FOR THE REAL PROPERTY OR INTEREST THEREIN, INCLUDING PAYMENT FOR AN
18 OPTION OR CONTRACT TO PURCHASE REAL PROPERTY, WHETHER OR NOT EXPRESSED
19 IN THE DEED AND WHETHER PAID OR REQUIRED TO BE PAID BY MONEY, PROPERTY,
20 OR ANY OTHER THING OF VALUE. IT SHALL INCLUDE THE CANCELLATION OR
21 DISCHARGE OF AN INDEBTEDNESS OR OBLIGATION. IT SHALL ALSO INCLUDE THE
22 AMOUNT OF ANY MORTGAGE, PURCHASE MONEY MORTGAGE, LIEN OR OTHER ENCUM-
23 BRANCE, WHETHER OR NOT THE UNDERLYING INDEBTEDNESS IS ASSUMED OR TAKEN
24 SUBJECT TO.

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

32 (B) IN THE CASE OF A CREATION OF A SUBLEASEHOLD INTEREST, CONSIDER-
33 ATION SHALL INCLUDE, BUT NOT BE LIMITED TO, THE VALUE OF THE SUBLEASE
34 RENTAL PAYMENTS ATTRIBUTABLE TO THE USE AND OCCUPANCY OF THE REAL PROP-
35 erty, THE VALUE OF ANY AMOUNT PAID FOR AN OPTION TO RENEW AND THE VALUE
36 OF RENTAL OR OTHER PAYMENTS ATTRIBUTABLE TO THE EXERCISE OF ANY OPTION
37 TO RENEW LESS THE VALUE OF THE REMAINING PRIME LEASE RENTAL PAYMENTS
38 REQUIRED TO BE MADE.

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

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

49 (E) IN THE CASE OF (1) THE ORIGINAL CONVEYANCE OF SHARES OF STOCK IN A
50 COOPERATIVE HOUSING CORPORATION IN CONNECTION WITH THE GRANT OR TRANSFER
51 OF A PROPRIETARY LEASEHOLD BY THE COOPERATIVE CORPORATION OR COOPERATIVE
52 PLAN SPONSOR AND (2) THE SUBSEQUENT CONVEYANCE BY THE OWNER THEREOF OF
53 SUCH STOCK IN A COOPERATIVE HOUSING CORPORATION IN CONNECTION WITH THE
54 GRANT OR TRANSFER OF A PROPRIETARY LEASEHOLD FOR A COOPERATIVE UNIT
55 OTHER THAN AN INDIVIDUAL RESIDENTIAL UNIT, CONSIDERATION SHALL INCLUDE A
56 PROPORTIONATE SHARE OF THE UNPAID PRINCIPAL OF ANY MORTGAGE ON THE REAL

1 PROPERTY OF THE COOPERATIVE HOUSING CORPORATION COMPRISING THE COOPER-
2 ATIVE DWELLING OR DWELLINGS. SUCH SHARE SHALL BE DETERMINED BY MULTIPLY-
3 ING THE TOTAL UNPAID PRINCIPAL OF THE MORTGAGE BY A FRACTION, THE NUMER-
4 ATOR OF WHICH SHALL BE THE NUMBER OF SHARES OF STOCK BEING CONVEYED IN
5 THE COOPERATIVE HOUSING CORPORATION IN CONNECTION WITH THE GRANT OR
6 TRANSFER OF A PROPRIETARY LEASEHOLD AND THE DENOMINATOR OF WHICH SHALL
7 BE THE TOTAL NUMBER OF SHARES OF STOCK IN THE COOPERATIVE HOUSING CORPO-
8 RATION.

9 5. "CONVEYANCE" MEANS THE TRANSFER OR TRANSFERS OF ANY INTEREST IN
10 REAL PROPERTY BY ANY METHOD, INCLUDING BUT NOT LIMITED TO, SALE,
11 EXCHANGE, ASSIGNMENT, SURRENDER, MORTGAGE FORECLOSURE, TRANSFER IN LIEU
12 OF FORECLOSURE, OPTION, TRUST INDENTURE, TAKING BY EMINENT DOMAIN,
13 CONVEYANCE UPON LIQUIDATION OR BY A RECEIVER, OR TRANSFER OR ACQUISITION
14 OF A CONTROLLING INTEREST IN ANY ENTITY WITH AN INTEREST IN REAL PROPER-
15 TY. TRANSFER OF AN INTEREST IN REAL PROPERTY SHALL INCLUDE THE CREATION
16 OF A LEASEHOLD OR SUBLEASE ONLY WHERE (A) THE SUM OF THE TERM OF THE
17 LEASE OR SUBLEASE AND ANY OPTIONS FOR RENEWAL EXCEEDS FORTY-NINE YEARS,
18 (B) SUBSTANTIAL CAPITAL IMPROVEMENTS ARE OR MAY BE MADE BY OR FOR THE
19 BENEFIT OF THE LESSEE OR SUBLESSEE, AND (C) THE LEASE OR SUBLEASE IS FOR
20 SUBSTANTIALLY ALL OF THE PREMISES CONSTITUTING THE REAL PROPERTY.
21 NOTWITHSTANDING THE FOREGOING, CONVEYANCE OF REAL PROPERTY SHALL NOT
22 INCLUDE THE CREATION, MODIFICATION, EXTENSION, SPREADING, SEVERANCE,
23 CONSOLIDATION, ASSIGNMENT, TRANSFER, RELEASE OR SATISFACTION OF A MORT-
24 GAGE; A MORTGAGE SUBORDINATION AGREEMENT, A MORTGAGE SEVERANCE AGREE-
25 MENT, AN INSTRUMENT GIVEN TO PERFECT OR CORRECT A RECORDED MORTGAGE; OR
26 A RELEASE OF LIEN OF TAX PURSUANT TO THIS CHAPTER OR THE INTERNAL REVEN-
27 UE CODE.

28 6. "INTEREST IN THE REAL PROPERTY" INCLUDES TITLE IN FEE, A LEASEHOLD
29 INTEREST, A BENEFICIAL INTEREST, AN ENCUMBRANCE, DEVELOPMENT RIGHTS, AIR
30 SPACE AND AIR RIGHTS, OR ANY OTHER INTEREST WITH THE RIGHT TO USE OR
31 OCCUPANCY OF REAL PROPERTY OR THE RIGHT TO RECEIVE RENTS, PROFITS OR
32 OTHER INCOME DERIVED FROM REAL PROPERTY. IT SHALL ALSO INCLUDE AN OPTION
33 OR CONTRACT TO PURCHASE REAL PROPERTY. IT SHALL NOT INCLUDE A RIGHT OF
34 FIRST REFUSAL TO PURCHASE REAL PROPERTY.

35 7. "GRANTOR" MEANS THE PERSON MAKING THE CONVEYANCE OF REAL PROPERTY
36 OR INTEREST THEREIN. WHERE THE CONVEYANCE CONSISTS OF A TRANSFER OR AN
37 ACQUISITION OF A CONTROLLING INTEREST IN AN ENTITY WITH AN INTEREST IN
38 REAL PROPERTY, "GRANTOR" MEANS THE ENTITY WITH AN INTEREST IN REAL PROP-
39 erty OR A SHAREHOLDER OR PARTNER TRANSFERRING STOCK OR PARTNERSHIP
40 INTEREST.

41 8. "GRANTEE" MEANS THE PERSON WHO OBTAINS REAL PROPERTY OR INTEREST
42 THEREIN AS A RESULT OF A CONVEYANCE.

43 9. "RECORDING OFFICER" MEANS THE COUNTY CLERK OF THE COUNTY OF LIVING-
44 STON.

45 10. "TREASURER" MEANS THE COMMISSIONER OF FINANCE OF THE COUNTY OF
46 LIVINGSTON.

47 S 1449-BBBBBB. IMPOSITION OF TAX. NOTWITHSTANDING ANY OTHER
48 PROVISIONS OF LAW TO THE CONTRARY, THE COUNTY OF LIVINGSTON, ACTING
49 THROUGH ITS LOCAL LEGISLATIVE BODY, IS HEREBY AUTHORIZED AND EMPOWERED
50 TO ADOPT AND AMEND LOCAL LAWS IMPOSING IN SUCH COUNTY A TAX ON EACH
51 CONVEYANCE OF REAL PROPERTY OR INTEREST THEREIN WHEN THE CONSIDERATION
52 EXCEEDS FIVE HUNDRED DOLLARS, AT THE RATE OF ONE DOLLAR FOR EACH FIVE
53 HUNDRED DOLLARS OR FRACTIONAL PART THEREOF. SUCH LOCAL LAW SHALL APPLY
54 TO ANY CONVEYANCE OCCURRING ON OR AFTER THE FIRST DAY OF A MONTH TO BE
55 DESIGNATED BY SUCH LEGISLATIVE BODY, WHICH IS NOT LESS THAN SIXTY DAYS
56 AFTER THE ENACTMENT OF SUCH LOCAL LAWS, BUT SHALL NOT APPLY TO CONVEY-

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

S 1449-CCCCC. PAYMENT OF TAX. 1. THE REAL ESTATE TRANSFER TAX IMPOSED PURSUANT TO THIS ARTICLE SHALL BE PAID TO THE TREASURER OR THE RECORDING OFFICER ACTING AS THE AGENT OF THE TREASURER UPON DESIGNATION AS SUCH AGENT BY THE TREASURER. SUCH TAX SHALL BE PAID AT THE SAME TIME AS THE REAL ESTATE TRANSFER TAX IMPOSED BY ARTICLE THIRTY-ONE OF THIS CHAPTER IS REQUIRED TO BE PAID. SUCH TREASURER OR RECORDING OFFICER SHALL ENDORSE UPON EACH DEED OR INSTRUMENT EFFECTING A CONVEYANCE A RECEIPT FOR THE AMOUNT OF THE TAX SO PAID.

2. A RETURN SHALL BE REQUIRED TO BE FILED WITH SUCH TREASURER OR RECORDING OFFICER FOR PURPOSES OF THE REAL ESTATE TRANSFER TAX IMPOSED PURSUANT TO THIS ARTICLE AT THE SAME TIME AS A RETURN IS REQUIRED TO BE FILED FOR PURPOSES OF THE REAL ESTATE TRANSFER TAX IMPOSED BY ARTICLE THIRTY-ONE OF THIS CHAPTER. THE RETURN, FOR PURPOSES OF THE REAL ESTATE TRANSFER TAX IMPOSED PURSUANT TO THIS ARTICLE, SHALL BE A PHOTOCOPY OR CARBON COPY OF THE REAL ESTATE TRANSFER TAX RETURN REQUIRED TO BE FILED PURSUANT TO SECTION FOURTEEN HUNDRED NINE OF THIS CHAPTER. HOWEVER, WHEN AN APPORTIONMENT IS REQUIRED TO BE MADE PURSUANT TO SECTION FOURTEEN HUNDRED FORTY-NINE-MMMMMM OF THIS ARTICLE, A SUPPLEMENTAL FORM SHALL ALSO BE REQUIRED TO BE FILED. THE REAL ESTATE TRANSFER TAX RETURNS AND SUPPLEMENTAL FORMS REQUIRED TO BE FILED PURSUANT TO THIS SECTION SHALL BE PRESERVED FOR THREE YEARS AND THEREAFTER UNTIL SUCH TREASURER OR RECORDING OFFICER ORDERS THEM TO BE DESTROYED.

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

S 1449-DDDDDD. LIABILITY FOR TAX. 1. THE REAL ESTATE TRANSFER TAX SHALL BE PAID BY THE GRANTOR. IF THE GRANTOR HAS FAILED TO PAY THE TAX IMPOSED PURSUANT TO THIS ARTICLE OR IF THE GRANTOR IS EXEMPT FROM SUCH TAX, THE GRANTEE SHALL HAVE THE DUTY TO PAY THE TAX. WHERE THE GRANTEE HAS THE DUTY TO PAY THE TAX BECAUSE THE GRANTOR HAS FAILED TO PAY, SUCH TAX SHALL BE THE JOINT AND SEVERAL LIABILITY OF THE GRANTOR AND THE GRANTEE.

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

S 1449-EEEEEE. EXEMPTIONS. 1. THE FOLLOWING SHALL BE EXEMPT FROM PAYMENT OF THE REAL ESTATE TRANSFER TAX:

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

(B) THE UNITED NATIONS, THE UNITED STATES OF AMERICA AND ANY OF ITS AGENCIES AND INSTRUMENTALITIES.

THE EXEMPTION OF SUCH GOVERNMENTAL BODIES OR PERSONS SHALL NOT, HOWEVER, RELIEVE A GRANTEE FROM THEM OF LIABILITY FOR THE TAX.

2. THE TAX SHALL NOT APPLY TO ANY OF THE FOLLOWING CONVEYANCES:

(A) 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);

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

(C) CONVEYANCES WHICH, WITHOUT ADDITIONAL CONSIDERATION, CONFIRM, CORRECT, MODIFY OR SUPPLEMENT A PRIOR CONVEYANCE;

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

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

(F) 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;

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

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

(I) 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; AND

(J) CONVEYANCES OF AN OPTION OR CONTRACT TO PURCHASE REAL PROPERTY WITH THE USE OR OCCUPANCY OF SUCH PROPERTY WHERE THE CONSIDERATION IS LESS THAN TWO HUNDRED THOUSAND DOLLARS AND SUCH PROPERTY WAS USED SOLELY BY THE GRANTOR AS HIS PERSONAL RESIDENCE AND CONSISTS OF A ONE, TWO OR THREE-FAMILY HOUSE, AN INDIVIDUAL RESIDENTIAL CONDOMINIUM UNIT OR THE SALE OF STOCK IN A COOPERATIVE HOUSING CORPORATION IN CONNECTION WITH THE GRANT OR TRANSFER OF A PROPRIETARY LEASEHOLD COVERING AN INDIVIDUAL RESIDENTIAL COOPERATIVE UNIT.

S 1449-FFFFF. CREDIT. A GRANTOR SHALL BE ALLOWED A CREDIT AGAINST THE TAX DUE ON A CONVEYANCE OF REAL PROPERTY TO THE EXTENT TAX WAS PAID BY SUCH GRANTOR 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 SUCH GRANTOR. 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 GRANTOR ON THE DATE OF THE SUBSEQUENT CONVEYANCE (AND WHICH SUCH GRANTOR WILL NOT BE ENTITLED TO RECEIVE AFTER SUCH DATE), AND THE DENOMINATOR OF WHICH IS THE TOTAL VALUE OF THE CONSIDERATION USED TO COMPUTE SUCH TAX PAID.

S 1449-GGGGG. COOPERATIVE HOUSING CORPORATION TRANSFERS. 1. NOTWITHSTANDING THE DEFINITION OF "CONTROLLING INTEREST" CONTAINED IN SUBDIVISION TWO OF SECTION FOURTEEN HUNDRED FORTY-NINE-AAAAA OF THIS ARTICLE OR ANYTHING TO THE CONTRARY CONTAINED IN SUBDIVISION FIVE OF SECTION FOURTEEN HUNDRED FORTY-NINE-AAAAA OF THIS ARTICLE, THE TAX IMPOSED PURSUANT TO THIS ARTICLE SHALL APPLY TO (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 OF SUCH STOCK IN A COOPERATIVE HOUSING CORPORATION IN CONNECTION WITH THE GRANT OR TRANSFER OF A PROPRIETARY LEASEHOLD BY THE OWNER THEREOF. WITH RESPECT TO ANY SUCH SUBSEQUENT CONVEYANCE WHERE THE PROPERTY

1 IS AN INDIVIDUAL RESIDENTIAL UNIT, THE CONSIDERATION FOR THE INTEREST
2 CONVEYED SHALL EXCLUDE THE VALUE OF ANY LIENS ON CERTIFICATES OF STOCK
3 OR OTHER EVIDENCES OF AN OWNERSHIP INTEREST IN AND A PROPRIETARY LEASE
4 FROM A CORPORATION OR PARTNERSHIP FORMED FOR THE PURPOSE OF COOPERATIVE
5 OWNERSHIP OF RESIDENTIAL INTEREST IN REAL ESTATE REMAINING THEREON AT
6 THE TIME OF CONVEYANCE. IN DETERMINING THE TAX ON A CONVEYANCE DESCRIBED
7 IN PARAGRAPH (A) OF THIS SUBDIVISION, A CREDIT SHALL BE ALLOWED FOR A
8 PROPORTIONATE PART OF THE AMOUNT OF ANY TAX PAID UPON THE CONVEYANCE TO
9 THE COOPERATIVE HOUSING CORPORATION OF THE REAL PROPERTY COMPRISING THE
10 COOPERATIVE DWELLING OR DWELLINGS TO THE EXTENT THAT SUCH CONVEYANCE
11 EFFECTUATED A MERE CHANGE OF IDENTITY OR FORM OF OWNERSHIP OF SUCH PROP-
12 ERTY AND NOT A CHANGE IN THE BENEFICIAL OWNERSHIP OF SUCH PROPERTY. THE
13 AMOUNT OF THE CREDIT SHALL BE DETERMINED BY MULTIPLYING THE AMOUNT OF
14 TAX PAID UPON THE CONVEYANCE TO THE COOPERATIVE HOUSING CORPORATION BY A
15 PERCENTAGE REPRESENTING THE EXTENT TO WHICH SUCH CONVEYANCE EFFECTUATED
16 A MERE CHANGE OF IDENTITY OR FORM OF OWNERSHIP AND NOT A CHANGE IN THE
17 BENEFICIAL OWNERSHIP OF SUCH PROPERTY, AND THEN MULTIPLYING THE RESULT-
18 ING PRODUCT BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE NUMBER OF
19 SHARES OF STOCK CONVEYED IN A TRANSACTION DESCRIBED IN PARAGRAPH (A) OF
20 THIS SUBDIVISION AND THE DENOMINATOR OF WHICH SHALL BE THE TOTAL NUMBER
21 OF SHARES OF STOCK OF THE COOPERATIVE HOUSING CORPORATION (INCLUDING ANY
22 STOCK HELD BY THE CORPORATION). IN NO EVENT, HOWEVER, SHALL SUCH CREDIT
23 REDUCE THE TAX, ON A CONVEYANCE DESCRIBED IN PARAGRAPH (A) OF THIS
24 SUBDIVISION, BELOW ZERO, NOR SHALL ANY SUCH CREDIT BE ALLOWED FOR A TAX
25 PAID MORE THAN TWENTY-FOUR MONTHS PRIOR TO THE DATE ON WHICH OCCURS THE
26 FIRST IN A SERIES OF CONVEYANCES OF SHARES OF STOCK IN AN OFFERING OF
27 COOPERATIVE HOUSING CORPORATION SHARES DESCRIBED IN PARAGRAPH (A) OF
28 THIS SUBDIVISION.

29 2. EVERY COOPERATIVE HOUSING CORPORATION SHALL BE REQUIRED TO FILE AN
30 INFORMATION RETURN WITH THE TREASURER BY JULY FIFTEENTH OF EACH YEAR
31 COVERING THE PRECEDING PERIOD OF JANUARY FIRST THROUGH JUNE THIRTIETH
32 AND BY JANUARY FIFTEENTH OF EACH YEAR COVERING THE PRECEDING PERIOD OF
33 JULY FIRST THROUGH DECEMBER THIRTY-FIRST. THE RETURN SHALL CONTAIN SUCH
34 INFORMATION REGARDING THE CONVEYANCE OF SHARES OF STOCK IN THE COOPER-
35 ATIVE HOUSING CORPORATION AS THE TREASURER MAY DEEM NECESSARY, INCLUD-
36 ING, BUT NOT LIMITED TO, THE NAMES, ADDRESSES AND EMPLOYEE IDENTIFICA-
37 TION NUMBERS OR SOCIAL SECURITY NUMBERS OF THE GRANTOR AND THE GRANTEE,
38 THE NUMBER OF SHARES CONVEYED, THE DATE OF THE CONVEYANCE AND THE
39 CONSIDERATION PAID FOR SUCH CONVEYANCE.

40 S 1449-HHHHHH. DESIGNATION OF AGENTS. THE TREASURER IS AUTHORIZED TO
41 DESIGNATE THE RECORDING OFFICER TO ACT AS ITS AGENT FOR PURPOSES OF
42 COLLECTING THE TAX AUTHORIZED BY THIS ARTICLE. THE TREASURER SHALL
43 PROVIDE FOR THE MANNER IN WHICH SUCH PERSON MAY BE DESIGNATED AS ITS
44 AGENT SUBJECT TO SUCH TERMS AND CONDITIONS AS IT SHALL PRESCRIBE. THE
45 REAL ESTATE TRANSFER TAX SHALL BE PAID TO SUCH AGENT AS PROVIDED IN
46 SECTION FOURTEEN HUNDRED FORTY-NINE-CCCCC OF THIS ARTICLE.

47 S 1449-IIIIII. LIABILITY OF RECORDING OFFICER. A RECORDING OFFICER
48 SHALL NOT BE LIABLE FOR ANY INACCURACY IN THE AMOUNT OF TAX IMPOSED
49 PURSUANT TO THIS ARTICLE THAT HE OR SHE SHALL COLLECT SO LONG AS HE OR
50 SHE SHALL COMPUTE AND COLLECT SUCH TAX ON THE AMOUNT OF CONSIDERATION OR
51 THE VALUE OF THE INTEREST CONVEYED AS SUCH AMOUNTS ARE PROVIDED TO HIM
52 OR HER BY THE PERSON PAYING THE TAX.

53 S 1449-JJJJJJ. REFUNDS. WHENEVER THE TREASURER SHALL DETERMINE THAT
54 ANY MONEYS RECEIVED UNDER THE PROVISIONS OF THE LOCAL LAW ENACTED PURSU-
55 ANT TO THIS ARTICLE WERE PAID IN ERROR, IT MAY CAUSE SUCH MONEYS TO BE
56 REFUNDED PURSUANT TO SUCH RULES AND REGULATIONS IT MAY PRESCRIBE,

1 PROVIDED ANY APPLICATION FOR SUCH REFUND IS FILED WITH THE TREASURER
2 WITHIN TWO YEARS FROM THE DATE THE ERRONEOUS PAYMENT WAS MADE.

3 S 1449-KKKKKK. DEPOSIT AND DISPOSITION OF REVENUE. ALL TAXES COLLECTED
4 OR RECEIVED BY THE TREASURER OR HIS OR HER DULY AUTHORIZED AGENT UNDER
5 THE PROVISIONS OF THE LOCAL LAW ENACTED PURSUANT TO THIS ARTICLE SHALL
6 BE DEPOSITED IN ACCORDANCE WITH PROVISIONS OF A LOCAL LAW ADOPTED BY THE
7 LEGISLATIVE BODY OF THE COUNTY OF LIVINGSTON WHICH LOCAL LAW SHALL
8 DESIGNATE PROPER OFFICERS TO BE RESPONSIBLE FOR DEPOSIT OF REVENUE
9 COLLECTED OR RECEIVED UNDER THIS ARTICLE. SUCH LOCAL LAW SHALL ALSO
10 PROVIDE THAT ANY OFFICER DESIGNATED TO COLLECT, RECEIVE, OR DEPOSIT SUCH
11 REVENUE SHALL MAINTAIN A SYSTEM OF ACCOUNTS SHOWING THE REVENUE
12 COLLECTED OR RECEIVED FROM THE TAX IMPOSED PURSUANT TO THIS ARTICLE.
13 SUCH LOCAL LAW SHALL ALSO PROVIDE THAT ALL REVENUE DERIVED FROM THE
14 IMPOSITION OF SUCH TAX SHALL BE DEPOSITED INTO THE GENERAL FUND OF THE
15 COUNTY OF LIVINGSTON.

16 S 1449-LLLLLL. JUDICIAL REVIEW. 1. ANY FINAL DETERMINATION OF THE
17 AMOUNT OF ANY TAX PAYABLE UNDER SECTION FOURTEEN HUNDRED
18 FORTY-NINE-CCCCCC OF THIS ARTICLE SHALL BE REVIEWABLE FOR ERROR, ILLE-
19 GALITY OR UNCONSTITUTIONALITY OR ANY OTHER REASON WHATSOEVER BY A
20 PROCEEDING UNDER ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND
21 RULES IF APPLICATION THEREFOR IS MADE TO THE SUPREME COURT WITHIN FOUR
22 MONTHS AFTER THE GIVING OF THE NOTICE OF SUCH FINAL DETERMINATION,
23 PROVIDED, HOWEVER, THAT ANY SUCH PROCEEDING UNDER ARTICLE SEVENTY-EIGHT
24 OF THE CIVIL PRACTICE LAW AND RULES SHALL NOT BE INSTITUTED UNLESS (A)
25 THE AMOUNT OF ANY TAX SOUGHT TO BE REVIEWED, WITH SUCH INTEREST AND
26 PENALTIES THEREON AS MAY BE PROVIDED FOR BY LOCAL LAW SHALL BE FIRST
27 DEPOSITED AND THERE IS FILED AN UNDERTAKING, ISSUED BY A SURETY COMPANY
28 AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE AND APPROVED BY THE SUPER-
29 INTENDENT OF FINANCIAL SERVICES OF THIS STATE AS TO SOLVENCY AND RESPON-
30 SIBILITY, IN SUCH AMOUNT AS A JUSTICE OF THE SUPREME COURT SHALL APPROVE
31 TO THE EFFECT THAT IF SUCH PROCEEDING BE DISMISSED OR THE TAX CONFIRMED
32 THE PETITIONER WILL PAY ALL COSTS AND CHARGES WHICH MAY ACCRUE IN THE
33 PROSECUTION OF SUCH PROCEEDING OR (B) AT THE OPTION OF THE PETITIONER,
34 SUCH UNDERTAKING MAY BE IN A SUM SUFFICIENT TO COVER THE TAXES, INTEREST
35 AND PENALTIES STATED IN SUCH DETERMINATION, PLUS THE COSTS AND CHARGES
36 WHICH MAY ACCRUE AGAINST IT IN THE PROSECUTION OF THE PROCEEDING, IN
37 WHICH EVENT THE PETITIONER SHALL NOT BE REQUIRED TO PAY SUCH TAXES,
38 INTEREST OR PENALTIES AS A CONDITION PRECEDENT TO THE APPLICATION.

39 2. WHERE ANY TAX IMPOSED HEREUNDER SHALL HAVE BEEN ERRONEOUSLY, ILLE-
40 GALLY OR UNCONSTITUTIONALLY ASSESSED OR COLLECTED AND APPLICATION FOR
41 THE REFUND OR REVISION THEREOF DULY MADE TO THE PROPER FISCAL OFFICER OR
42 OFFICERS, AND SUCH OFFICER OR OFFICERS SHALL HAVE MADE A DETERMINATION
43 DENYING SUCH REFUND OR REVISION, SUCH DETERMINATION SHALL BE REVIEWABLE
44 BY A PROCEEDING UNDER ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW
45 AND RULES; PROVIDED, HOWEVER, THAT (A) SUCH PROCEEDING IS INSTITUTED
46 WITHIN FOUR MONTHS AFTER THE GIVING OF THE NOTICE OF SUCH DENIAL, (B) A
47 FINAL DETERMINATION OF TAX DUE WAS NOT PREVIOUSLY MADE, AND (C) AN
48 UNDERTAKING IS FILED WITH THE PROPER FISCAL OFFICER OR OFFICERS IN SUCH
49 AMOUNT AND WITH SUCH SURETIES AS A JUSTICE OF THE SUPREME COURT SHALL
50 APPROVE TO THE EFFECT THAT IF SUCH PROCEEDING BE DISMISSED OR THE TAX
51 CONFIRMED, THE PETITIONER WILL PAY ALL COSTS AND CHARGES WHICH MAY
52 ACCRUE IN THE PROSECUTION OF SUCH PROCEEDING.

53 S 1449-MMMMMM. APPORTIONMENT. THE LOCAL LAW ADOPTED BY THE LEGISLATIVE
54 BODY OF THE COUNTY OF LIVINGSTON SHALL PROVIDE FOR A METHOD OF APPOR-
55 TIONMENT FOR DETERMINING THE AMOUNT OF TAX DUE WHENEVER THE REAL PROPER-

1 TY OR INTEREST THEREIN IS SITUATED WITHIN AND WITHOUT THE COUNTY OF
2 LIVINGSTON.

3 S 1449-NNNNNN. MISCELLANEOUS. THE LOCAL LAW ADOPTED BY THE LEGISLATIVE
4 BODY OF THE COUNTY OF LIVINGSTON MAY CONTAIN SUCH OTHER PROVISIONS AS
5 SUCH LEGISLATIVE BODY DEEMS NECESSARY FOR THE PROPER ADMINISTRATION OF
6 THE TAX IMPOSED PURSUANT TO THIS ARTICLE, INCLUDING PROVISIONS CONCERN-
7 ING THE DETERMINATION OF TAX, THE IMPOSITION OF INTEREST ON UNDERPAY-
8 MENTS AND OVERPAYMENTS AND THE IMPOSITION OF CIVIL PENALTIES. SUCH
9 PROVISIONS SHALL BE IDENTICAL TO THE CORRESPONDING PROVISIONS OF THE
10 REAL ESTATE TRANSFER TAX IMPOSED BY ARTICLE THIRTY-ONE OF THIS CHAPTER,
11 SO FAR AS SUCH PROVISIONS CAN BE MADE APPLICABLE TO THE TAX IMPOSED
12 PURSUANT TO THIS ARTICLE.

13 S 1449-000000. RETURNS TO BE SECRET. 1. EXCEPT IN ACCORDANCE WITH
14 PROPER JUDICIAL ORDER OR AS OTHERWISE PROVIDED BY LAW, IT SHALL BE
15 UNLAWFUL FOR THE TREASURER OR ANY OFFICER OR EMPLOYEE OF THE COUNTY OF
16 LIVINGSTON OR ANY PERSON ENGAGED OR RETAINED BY SUCH COUNTY ON AN INDE-
17 PENDENT CONTRACT BASIS TO DIVULGE OR MAKE KNOWN IN ANY MANNER THE
18 PARTICULARS SET FORTH OR DISCLOSED IN ANY RETURN REQUIRED UNDER A LOCAL
19 LAW ENACTED PURSUANT TO THIS ARTICLE. HOWEVER, THAT NOTHING IN THIS
20 SECTION SHALL PROHIBIT THE RECORDING OFFICER FROM MAKING A NOTATION ON
21 AN INSTRUMENT EFFECTING A CONVEYANCE INDICATING THE AMOUNT OF TAX PAID.
22 NO RECORDED INSTRUMENT EFFECTING A CONVEYANCE SHALL BE CONSIDERED A
23 RETURN FOR PURPOSES OF THIS SECTION.

24 2. THE OFFICERS CHARGED WITH THE CUSTODY OF SUCH RETURNS SHALL NOT BE
25 REQUIRED TO PRODUCE ANY OF THEM OR EVIDENCE OF ANYTHING CONTAINED IN
26 THEM IN ANY ACTION OR PROCEEDING IN ANY COURT, EXCEPT ON BEHALF OF THE
27 COUNTY IN ANY ACTION OR PROCEEDING INVOLVING THE COLLECTION OF A TAX DUE
28 UNDER A LOCAL LAW ENACTED PURSUANT TO THIS ARTICLE TO WHICH SUCH COUNTY
29 OR AN OFFICER OR EMPLOYEE OF SUCH COUNTY IS A PARTY OR A CLAIMANT, OR ON
30 BEHALF OF ANY PARTY TO ANY ACTION OR PROCEEDING UNDER THE PROVISIONS OF
31 A LOCAL LAW ENACTED PURSUANT TO THIS ARTICLE WHEN THE RETURNS OR FACTS
32 SHOWN THEREBY ARE DIRECTLY INVOLVED IN SUCH ACTION OR PROCEEDING, IN ANY
33 OF WHICH EVENTS THE COURT MAY REQUIRE THE PRODUCTION OF, AND MAY ADMIT
34 IN EVIDENCE, SO MUCH OF SAID RETURNS OR OF THE FACTS SHOWN THEREBY, AS
35 ARE PERTINENT TO THE ACTION OR PROCEEDING AND NO MORE.

36 3. NOTHING HEREIN SHALL BE CONSTRUED TO PROHIBIT THE DELIVERY TO A
37 GRANTOR OR GRANTEE OF AN INSTRUMENT EFFECTING A CONVEYANCE OR THE DULY
38 AUTHORIZED REPRESENTATIVE OF A GRANTOR OR GRANTEE OF A CERTIFIED COPY OF
39 ANY RETURN FILED IN CONNECTION WITH SUCH INSTRUMENT OR TO PROHIBIT THE
40 PUBLICATION OF STATISTICS SO CLASSIFIED AS TO PREVENT THE IDENTIFICATION
41 OF PARTICULAR RETURNS AND THE ITEMS THEREOF, OR THE INSPECTION BY THE
42 LEGAL REPRESENTATIVES OF SUCH COUNTY OF THE RETURN OF ANY TAXPAYER WHO
43 SHALL BRING ACTION TO SET ASIDE OR REVIEW THE TAX BASED THEREON.

44 4. ANY OFFICER OR EMPLOYEE OF SUCH COUNTY WHO WILLFULLY VIOLATES THE
45 PROVISIONS OF THIS SECTION SHALL BE DISMISSED FROM OFFICE AND BE INCAPA-
46 BLE OF HOLDING ANY PUBLIC OFFICE IN THIS STATE FOR A PERIOD OF FIVE
47 YEARS THEREAFTER.

48 S 2. This act shall take effect immediately and shall expire and be
49 deemed repealed December 31, 2015.