STATE OF NEW YORK

9541--A

IN ASSEMBLY

January 19, 2018

Introduced by M. of A. THIELE -- read once and referred to the Committee on Local Governments -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the town law and the tax law, in relation to authorizing towns in the Peconic Bay region to establish a community housing revolving fund, to be funded by a supplemental real estate transfer tax

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act may be known and cited as the "Peconic Bay Region Community Housing Revolving Fund Act".

§ 2. Legislative findings. The legislature hereby finds that critical to the future of the Peconic Bay region is the need for an adequate supply of housing opportunities for all segments of the Peconic Bay community.

The adverse impact resulting from the lack of housing opportunities is severe. Local employers are having difficulty hiring and retaining employees because of housing costs and availability. Local volunteer emergency services agencies are experiencing difficulty in recruitment and retention. Long-time residents are forced to leave the area. Traffic congestion is intensified by the importation of labor from areas with lower housing costs. Finally, the lack of housing opportunities is resulting in residents being forced to live in substandard, illegal conditions.

The unique demographics and economics in the Peconic Bay region and a lack of affordable dwelling units are contributing to this housing shortage. The combination of the Peconic Bay region's attractiveness, proximity to the dense population of the New York metropolitan region, and proximity to that region's extraordinary wealth, makes the Peconic Bay region a prime location for seasonal and luxury homes. While this combination of extraordinary attractiveness, population and wealth has created a strong local economy for the Peconic Bay region, it has resulted in housing problems for local families. In the Peconic Bay region, more than 40% of all housing units are seasonal.

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

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In summary, the demand of land for luxury and seasonal homes and seasonal rentals has left a short supply of housing opportunities for moderate income and working class local residents. The implementation of the new federal tax bill will only exacerbate this problem by making it more difficult for homebuyers with the $10,000 cap on the deductibility of state and local taxes and the reduced mortgage interest deduction on new mortgages. The Peconic Bay region needs a balanced housing policy where there exists a variety of housing types and opportunities across the region's economic spectrum.

It is the purpose of this legislation, to give the towns of the Peconic Bay region the authority and resources needed to establish housing opportunities. This legislation would permit each town to establish a dedicated community housing revolving fund to increase housing opportunities in the region. Specifically, towns would be permitted to provide loans to those residents and families below the median income level of the town who are first time home buyers. Said loans would be up to 50% of the cost of the house. Such a loan would permit more residents and families to access the existing housing market. Said loan would be repaid upon any future sale of the dwelling. The repayment amount would be equal to an amount in proportion to the resale price as the original proportion of the loan to the original sale price.

This program would provide funding to increase housing opportunities. It would also permit families under the program to enjoy a proportional benefit in the equity of their new home. Finally, upon resale, the town's proportional interest would be returned to the fund to finance future housing opportunities.

Said fund would be financed by a combination of state and local funds, including a 0.5% real estate transfer tax, which would be in addition to the existing 2% real estate transfer tax for the Peconic Bay region community preservation fund.

§ 3. The town law is amended by adding a new section 64-k to read as follows:

§ 64-k. Peconic Bay region community housing revolving fund act. 1. Definitions. As used in this section, the following words and terms shall have the following meanings:

a. "Peconic Bay region" means the towns of East Hampton, Riverhead, Shelter Island, Southampton, and Southold.

b. "Housing" means a primary residential property for a household with an income that does not exceed one hundred percent of the income limits where the purchase price of the primary residential property does not exceed one hundred fifty percent of the purchase price limits. The income limits and purchase price limits shall be as established by the state of New York mortgage agency low interest rate loan program in non-target categories for Suffolk county in effect on the contract date for the sale of such property.

c. "Fund" means the community housing revolving fund authorized pursuant to this section.

d. "First home" means a person who has not owned a primary residential property and is not married to a person who has owned a residential property during the three-year period prior to his or her purchase of the primary residential property, and who does not own a vacation or investment home.

e. "Primary residential property" means any one or two family house, townhouse, or condominium.

2. Fund authorized. The town board of any town in the Peconic Bay region is authorized to establish by local law a community housing

revolving fund, pursuant to the provisions of this section. Deposits into the fund may include revenues of the local government from whatever source, including but not limited to:

a. all revenues from the supplemental real estate transfer tax authorized by subdivision two of section fourteen hundred forty-nine-bb of the tax law;

b. general fund appropriations, including general fund balances or surpluses;

c. the repayment of any loans issued from proceeds of the fund;

d. any gifts of interests in land or funds; and

e. any state or federal grants received by the town for providing affordable homes.

3. Fund management. Interest accrued by monies deposited into the fund shall be credited to the fund. In no event shall monies deposited into the fund be transferred to any other account. Nothing contained in this section shall be construed to prevent the financing in whole or in part, pursuant to the local finance law, of any purpose authorized pursuant to this section. Monies from the fund may be utilized to repay indebtedness or obligations incurred pursuant to the local finance law consistent with effectuating the purposes of this section.

4. Purposes of the fund. The proceeds of the fund established pursuant to this section shall be utilized:

a. for the provision of loans to eligible residents of the town for the purchase of a first home pursuant to the provisions of this section, and

b. the provision of housing counseling services by not-for-profit corporations who are authorized by the U.S. Department of Housing and Urban Development to provide such services.

5. A town may make a loan to a resident of the town or a person employed in the town for the purchase of a first home. Said loan shall not exceed fifty percent of the purchase price of the home. Said loan shall be repayable to the town upon the re-sale of the home. The repayment to the town shall be an amount equal to the proportion of the original loan from the town to the original purchase price to the resale price multiplied by the re-sale purchase price.

6. For the purposes of calculating town tax liability for such property, only, the dollar amount of any loan for the purchase of a first home made by the town pursuant to this section shall be subtracted from the full equalized assessed value of such property.

7. All revenues received by the town from the repayment of loans shall be deposited in the fund.

8. The town may give a priority to persons who (a) serve as a volunteer in an emergency services agency, (b) serve as a volunteer in a not-for-profit health or human services agency, or are (c) town residents, veterans, active duty military or employed by the town.

9. The town shall have the authority to enact rules and regulations to facilitate the provisions and purposes of this section.

§ 4. Section 1449-bb of the tax law, as added by chapter 114 of the laws of 1998, is amended to read as follows:

§ 1449-bb. Imposition of tax. 1. Notwithstanding any other provisions of law to the contrary, any town in the Peconic Bay region, acting through its town board, is hereby authorized and empowered to adopt a local law imposing in such town a tax on each conveyance of real property or interest therein where the consideration exceeds five hundred dollars, at the rate of two percent of the consideration for such conveyance. Provided, however, any such local law imposing, repealing

or reimposing such tax shall be subject to a mandatory referendum pursuant to section twenty-three of the municipal home rule law. Notwithstanding the foregoing, prior to adoption of such local law, the town must establish a community preservation fund pursuant to section sixty-four-e of the town law. Revenues from such tax shall be deposited in such fund and may be used solely for the purposes of such fund. Such local law shall apply to any conveyance occurring on or after the first day of a month to be designated by such town board, which is not less than sixty days after the enactment of such local law, but shall not apply to conveyances 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.

2. Notwithstanding any other provisions of law to the contrary, in addition to the tax authorized by subdivision one of this section, any town in the Peconic Bay region, acting through its town board, is hereby authorized and empowered to adopt a local law imposing in such town a supplemental tax on each conveyance of real property or interest therein where the consideration exceeds five hundred dollars, at the rate of one half of one percent of the consideration for such conveyance. Provided, however, any such local law imposing, repealing or reimposing such supplemental tax shall be subject to a mandatory referendum pursuant to section twenty-three of the municipal home rule law. Notwithstanding the foregoing, prior to adoption of such local law, the town must establish a community housing revolving fund pursuant to section sixty-four-k of the town law. Revenues from such supplemental tax shall be deposited in such fund and may be used solely for the purposes of such fund. Such local law shall apply to any conveyance occurring on or after the first day of a month to be designated by such town board, which is not less than sixty days after the enactment of such local law, but shall not apply to conveyances 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.

§ 5. Subdivision 3 of section 1449-ee of the tax law, as added by chapter 114 of the laws of 1998, is amended to read as follows:

3. (a) In the towns of East Hampton, Shelter Island and Southampton, an exemption of two hundred fifty thousand dollars shall be allowed on the consideration of the conveyance of improved real property or an interest therein and an exemption of one hundred thousand dollars shall be allowed on the consideration of the conveyance of unimproved real property. **This exemption shall not apply to any supplemental tax imposed pursuant to subdivision two of section fourteen hundred forty-nine-bb of this article.**

(b) In the towns of Riverhead and Southold, an exemption of one hundred fifty thousand dollars shall be allowed on the consideration of the conveyance of improved real property or an interest therein and an exemption of seventy-five thousand dollars shall be allowed on the consideration of the conveyance of unimproved real property. **This exemption shall not apply to any supplemental tax imposed pursuant to subdivision two of section fourteen hundred forty-nine-bb of this article.**

(c) In the towns of East Hampton, Shelter Island and Southampton, an exemption from the tax imposed pursuant to subdivision two of section

fourteen hundred forty-nine-bb of this article in the amount of one million dollars shall be allowed on the consideration of the conveyance of improved real property or an interest therein and an exemption of five hundred thousand dollars shall be allowed on the consideration of the conveyance of unimproved real property.

(d) In the towns of Riverhead and Southold, an exemption from the tax imposed pursuant to subdivision two of section fourteen hundred forty-nine-bb of this article in the amount of seven hundred thousand dollars shall be allowed on the consideration of the conveyance of improved real property or an interest therein and an exemption of three hundred fifty thousand dollars shall be allowed on the consideration of the conveyance of unimproved real property.

§ 6. Severability clause. If any provision of this act or application thereof shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of the act, but shall be confined in its operation to the provision thereof directly involved in the controversy in which the judgment shall have been rendered.

§ 7. This act shall take effect immediately; provided, however, that the amendments to section 1449-bb of the tax law and subdivision 3 of section 1449-ee of the tax law, made by sections four and five of this act, respectively, shall not affect the repeal of article 31-D of the tax law and shall be deemed to be repealed therewith.