

STATE OF NEW YORK

S. 7332

A. 9082

SENATE - ASSEMBLY

January 17, 2020

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

IN ASSEMBLY -- Introduced by M. of A. THIELE, PALUMBO -- read once and referred to the Committee on Local Governments

AN ACT to amend the town law and the tax law, in relation to authorizing towns in the Peconic Bay region to establish community housing funds 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:

1 Section 1. Legislative findings. The legislature hereby finds that
2 critical to the future of the Peconic Bay region is the need for an
3 adequate supply of housing opportunities for all segments of the Peconic
4 Bay community.

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

14 The unique demographics and economics in the Peconic Bay region and a
15 lack of affordable dwelling units are contributing to this housing shor-
16 tage. The combination of the Peconic Bay region's attractiveness, prox-
17 imity to the dense population of the New York metropolitan region and to
18 that region's extraordinary wealth, makes the Peconic Bay region a prime
19 location for seasonal and luxury homes. While this combination of
20 extraordinary attractiveness, population density, and wealth has created
21 a strong local economy for the Peconic Bay region, it has resulted in a
22 housing crisis for local families. In the Peconic Bay region, more than
23 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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1 In summary, the demand of land for luxury and seasonal homes and
2 seasonal rentals has left a short supply of housing opportunities for
3 moderate income and working class local residents. The implementation of
4 the new federal tax bill will only exacerbate this problem by making it
5 more difficult for first time homebuyers by imposing a \$10,000 cap on
6 the deductibility of state and local taxes and by reducing the mortgage
7 interest deduction on new mortgages. The Peconic Bay region requires a
8 balanced housing policy where there exists a variety of housing types
9 and opportunities across the region's economic spectrum.

10 It is the public purpose of this legislation to give the towns of the
11 Peconic Bay region the authority and resources needed to establish a
12 dedicated fund to provide needed housing opportunities. Specifically,
13 this legislation would permit each town to establish a community housing
14 fund to increase housing opportunities in the region. Further, a town
15 housing plan adhering to smart growth principles would be required to be
16 approved and implemented to insure that these new housing opportunities
17 are enacted in the context of a comprehensive plan. The fund shall be
18 enacted by local law subject to a mandatory referendum.

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

23 In addition, the exemption amounts from the total real estate transfer
24 tax would be increased to \$400,000 in the towns of Southampton, East
25 Hampton and Shelter Island and to \$280,000 in the towns of Riverhead and
26 Southold. This will insure that in the towns of East Hampton, Southamp-
27 ton, and Shelter Island, the real estate transfer tax will be reduced
28 from current law for property transfers with a consideration under
29 \$1,000,000. The real estate transfer tax would be reduced from current
30 law in the towns of Southold and Riverhead for property transfers with a
31 consideration under \$800,000. Finally, the purchase price limit for the
32 exemption for first time homebuyers in the towns of East Hampton, South-
33 ampton and Shelter Island would be increased from 120% to 150% of the
34 purchase price limit defined by the state of New York mortgage agency.
35 These amendments to the exemptions will reduce any adverse impact from
36 the transfer tax on the provision of community housing.

37 § 2. This act shall be known and may be cited as the "Peconic Bay
38 region community housing act".

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

41 § 64-k. Peconic Bay region community housing fund. 1. Definitions. As
42 used in this section, the following words and terms shall have the
43 following meanings:

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

46 (b) "Community housing" means a primary residential property for an
47 eligible individual that does not exceed one hundred fifty percent of
48 the purchase price limits established by the state of New York mortgage
49 agency low interest rate loan program in non-target categories for
50 Suffolk county in effect on the contract date for the sale of such prop-
51 erty.

52 (c) "Board" means the advisory board created pursuant to subdivision
53 six of this section.

54 (d) "Fund" means the community housing fund authorized pursuant to
55 subdivision two of this section.

1 (e) "First-time homebuyer" means an eligible individual who has not
2 owned a primary residential property and is not married to a person who
3 has owned a residential property during the three-year period prior to
4 his or her purchase of the primary residential property, and who does
5 not own a vacation or investment home.

6 (f) "Primary residential property" means any one or two family house,
7 townhouse, or condominium.

8 (g) "Eligible individual" means a household with an income that does
9 not exceed one hundred percent of the income limits as established by
10 the state of New York mortgage agency low interest rate loan program in
11 non-target categories for Suffolk county in effect on the contract date
12 for the sale of such property.

13 2. Fund authorized. The town board of any town in the Peconic Bay
14 region is authorized to establish by local law a community housing fund,
15 pursuant to the provisions of this section. Deposits into the fund may
16 include revenues of the local government from whatever source, including
17 but not limited to: (a) all revenues from the supplemental real estate
18 transfer tax authorized by subdivision two of section fourteen hundred
19 forty-nine-bb of the tax law; (b) all proceeds from any indebtedness or
20 obligations issued pursuant to the local finance law for community hous-
21 ing opportunity purposes as authorized in subdivision three of this
22 section; (c) general fund balances or surpluses; (d) any proceeds
23 received by the local government from the sale or rental of community
24 housing produced from revenues of the fund; (e) the repayment of any
25 loans issued from proceeds of the fund; (f) any gifts of interests in
26 land or funds; (g) any state or federal grants received by the town for
27 providing affordable homes.

28 3. Purposes of the fund. The proceeds of the fund established pursuant
29 to subdivision two of this section shall be utilized for the following
30 purposes:

31 (a) the provision of financial assistance to first-time homebuyers who
32 are residents of the town for the purchase of a first home. Said finan-
33 cial assistance may be in the form of grants or loans.

34 (1) A town may provide financial assistance to a first-time homebuyer
35 who is a resident of the town or who is employed in the town for the
36 purchase of a first home. A resident of the town shall include a person
37 who is currently a resident of the town or a non-resident who has been a
38 resident within the past five years.

39 (2) Said financial assistance shall not exceed fifty percent of the
40 purchase price of the home.

41 (3) If said financial assistance is in the form of a loan, said loan
42 shall be repayable to the town pursuant to the terms agreed to between
43 the recipient and the town, provided that, at a minimum, any loan shall
44 be fully repaid by the recipient upon the resale of the home.

45 (4) For the purposes of calculating town tax liability for such prop-
46 erty, only, the dollar amount of any financial assistance for the
47 purchase of a first home made by the town pursuant to this section shall
48 be subtracted from the full equalized assessed value of such property.

49 (5) All revenues received by the town from the repayment of a loan
50 shall be deposited in the fund.

51 (6) A town may provide financial assistance for community housing in
52 conjunction with a public/private partnership for employer assisted
53 housing.

54 (b) the actual production of community housing for sale to eligible
55 individuals by the town;

1 (c) the actual production of community housing for sale to eligible
2 individuals in conjunction with a public/private partnership, where the
3 private partner agrees to comply with the profit guidelines of the New
4 York state affordable housing corporation and the provisions of this
5 section;

6 (d) the actual production and maintenance of community housing for
7 rental to eligible individuals either by the town or the town housing
8 authority; or in conjunction with a public/private partnership, where
9 the private partner agrees to comply with the profit guidelines of the
10 New York state affordable housing corporation and the provisions of this
11 section;

12 (e) the rehabilitation of existing buildings and structures in the
13 town for the purpose of conversion to community housing for sale or
14 rental to eligible individuals; and

15 (f) the provision of housing counseling services by not-for-profit
16 corporations who are authorized by the United States department of hous-
17 ing and urban development to provide such services.

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

26 5. Eligible expenses. For the purposes of this section, eligible
27 expenses relating to the production of community housing and the reha-
28 bilitation of existing buildings and structures under the fund shall
29 include but not be limited to land acquisition, planning, engineering,
30 construction costs, and other hard and soft costs directly related to
31 the construction, rehabilitation, purchase or rental of housing pursuant
32 to this section. All revenues received by the town from the sale or
33 rental of community homes, or the repayment of loans shall be deposited
34 in the fund.

35 6. Advisory board established. The town board of any town in the
36 Peconic Bay region which has established a community housing fund pursu-
37 ant to this section shall create an advisory board to review and make
38 recommendations regarding the town's community housing plan required by
39 subdivision seven of this section. Such board shall consist of not less
40 than seven nor more than fifteen legal residents of the municipality who
41 shall serve without compensation. No member of the local legislative
42 body shall serve on the board. The board shall include a representative
43 of: (a) the construction industry; (b) the real estate industry; (c) the
44 banking industry; and three representatives of local housing advocacy or
45 human services organizations. Where a village or villages, located with-
46 in the town, have elected to participate in the fund, as provided in
47 subdivision seven of this section, the board shall include at least one
48 resident of a participating village or villages. Where an Indian nation
49 is located within the boundaries of a town, the board shall include at
50 least one member from such nation. The board shall act in an advisory
51 capacity to the town board.

52 7. Adoption of housing plan. (a) Before a town in the Peconic Bay
53 region may establish the fund, the town board shall first adopt a town
54 housing plan which establishes an implementation plan for the provision
55 of community housing opportunities by the fund. Said plan shall be

1 adopted by local law. Such plan shall adhere to the following smart
2 growth principles:

3 (1) Public investment. To account for and minimize social, economic,
4 and environmental costs of new development, including infrastructure
5 costs such as transportation, sewers, and wastewater treatment, water,
6 schools, recreation, and loss of open space and agricultural land;

7 (2) Development. To encourage development in areas where transporta-
8 tion, water, and sewage infrastructure are available or practical;

9 (3) Conservation. To protect, preserve, and enhance the state's
10 resources, including agricultural land, forests, surface waters, ground-
11 water, recreation and open space, scenic areas, and significant historic
12 and archeological sites;

13 (4) Coordination. To promote coordination of state and local govern-
14 ment decisions and cooperation among communities to work toward the most
15 efficient, planned and cost-effective delivery of government services
16 by, among other means, facilitating cooperative agreements among adja-
17 cent communities, and to coordinate planning to ensure compatibility of
18 one's community development with development of neighboring communities;

19 (5) Community design. To strengthen communities through development
20 and redevelopment strategies that include integration of all income and
21 age groups, mixed land uses, and compact development, traditional neigh-
22 borhood development, planned unit development, open space districts,
23 downtown revitalization, brownfield redevelopment, enhanced beauty in
24 public spaces, and diverse and community housing in close proximity to
25 places of employment, recreation, and commercial development;

26 (6) Transportation. To provide transportation choices, including
27 increasing public transit and alternative modes of transportation, in
28 order to reduce automobile dependency, traffic congestion, and automo-
29 bile pollution;

30 (7) Consistency. To ensure predictability in building and land use
31 codes; and

32 (8) Community collaboration. To provide for and encourage local
33 governments to develop, through a collaborative community-based effort,
34 smart growth plans that include long term land use and permit predict-
35 ability and coordination, efficient decision making and planning imple-
36 mentation.

37 (b) Such plan may include the establishment of a map or maps that
38 delineate the housing implementation recommendations proposed by the
39 town.

40 (c) Such plan shall be updated at least once every five years. Such
41 plan and local law shall be adopted at least sixty days before the
42 mandatory referendum required by subdivision ten of this section.

43 (d) The town housing plan shall be an element of the town's comprehen-
44 sive plan.

45 (e) Such plan shall ensure that all community housing created pursuant
46 to this section remains affordable. Subsequent purchasers of such
47 community housing shall have at the time of purchase, pursuant to the
48 definition "eligible individual", an income that does not exceed one
49 hundred percent of the income limits as established by the state of New
50 York mortgage agency low interest rate loan program in non-target cate-
51 gories for Suffolk county.

52 (f) Such plan shall provide for the equitable distribution of communi-
53 ty housing opportunities among all the communities of the town. The plan
54 shall ensure that no community is sited for an undue concentration of
55 community housing opportunities that would substantially alter the char-
56 acter of the community. In determining equitable distribution of commu-

1 nity housing opportunities, existing community housing opportunities in
2 a community shall be considered.

3 8. Village participation. (a) The participation of any village in the
4 community housing program authorized by this section shall be at the
5 option of the village. In order to participate, a village shall pass a
6 resolution opting into the program and shall submit said resolution to
7 the town board.

8 (b) Where a village opts to participate pursuant to this subdivision,
9 an intergovernmental agreement shall be executed pursuant to article
10 five-G of the general municipal law or other applicable legal authority,
11 in order to establish the rights and responsibilities of each government
12 regarding community housing opportunities.

13 9. Intermunicipal agreements. Notwithstanding any provision of law to
14 the contrary, towns in the Peconic Bay region may enter into intermunicipal
15 agreements pursuant to article five-G of the general municipal law
16 for purposes consistent with this section.

17 10. Mandatory referendum. The local law or laws adopting the housing
18 plan and establishing the community housing fund shall be subject to a
19 mandatory referendum. Such local law or laws shall only become effective
20 upon the adoption of said referendum by the electors of the town.

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

23 § 1449-bb. Imposition of tax. 1. Notwithstanding any other provisions
24 of law to the contrary, any town in the Peconic Bay region, acting
25 through its town board, is hereby authorized and empowered to adopt a
26 local law imposing in such town a tax on each conveyance of real proper-
27 ty or interest therein where the consideration exceeds five hundred
28 dollars, at the rate of two percent of the consideration for such
29 conveyance. Provided, however, any such local law imposing, repealing
30 or reimposing such tax shall be subject to a mandatory referendum pursu-
31 ant to section twenty-three of the municipal home rule law. Notwith-
32 standing the foregoing, prior to adoption of such local law, the town
33 must establish a community preservation fund pursuant to section sixty-
34 four-e of the town law. Revenues from such tax shall be deposited in
35 such fund and may be used solely for the purposes of such fund. Such
36 local law shall apply to any conveyance occurring on or after the first
37 day of a month to be designated by such town board, which is not less
38 than sixty days after the enactment of such local law, but shall not
39 apply to conveyances made on or after such date pursuant to binding
40 written contracts entered into prior to such date, provided that the
41 date of execution of such contract is confirmed by independent evidence
42 such as the recording of the contract, payment of a deposit or other
43 facts and circumstances as determined by the treasurer.

44 2. Notwithstanding any other provisions of law to the contrary, in
45 addition to the tax authorized by subdivision one of this section, any
46 town in the Peconic Bay region, acting through its town board, is hereby
47 authorized and empowered to adopt a local law imposing in such town a
48 supplemental tax on each conveyance of real property or interest therein
49 where the consideration exceeds five hundred dollars, at the rate of one
50 half of one percent of the consideration for such conveyance. Provided,
51 however, any such local law imposing, repealing or re-imposing such
52 supplemental tax shall be subject to a mandatory referendum pursuant to
53 section twenty-three of the municipal home rule law. Notwithstanding the
54 foregoing, prior to adoption of such local law, the town must establish
55 a community housing fund pursuant to section sixty-four-k of the town
56 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. Any tax imposed pursuant to this subdivision shall be administered and collected in a like manner as the tax imposed by subdivision one of this section.

§ 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~~] four 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.

(b) In the towns of Riverhead and Southold, an exemption of [~~one~~] two hundred [~~fifty~~] eighty 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.

(c) The provisions of this subdivision shall only apply to conveyances for residential property where the consideration is two million dollars or less.

§ 6. Subparagraph 1 of paragraph (a) of subdivision 4 of section 1449-ee of the tax law, as amended by chapter 389 of the laws of 2014, is amended to read as follows:

(1) in the towns of Southampton, East Hampton and Shelter Island, the primary residential property is within one hundred [~~twenty~~] fifty percent of the purchase price limits defined by the state of New York mortgage agency low interest rate mortgage program in the non-target one family categories for Suffolk county in effect on the contract date for the sale of such property;

§ 7. 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.

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