

# STATE OF NEW YORK

6492

2021-2022 Regular Sessions

## IN SENATE

May 3, 2021

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

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 an  
2 adequate supply of housing opportunities for all segments of the Peconic  
3 Bay community is critical to the future of the Peconic Bay region.

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

12 The unique demographics and economics in the Peconic Bay region and a  
13 lack of affordable dwelling units are contributing to this housing shor-  
14 tage. The combination of the Peconic Bay region's attractiveness, prox-  
15 imity to the dense population of the New York metropolitan region and to  
16 that region's extraordinary wealth, makes the Peconic Bay region a prime  
17 location for seasonal and luxury homes. While this combination of  
18 extraordinary attractiveness, population density, and wealth has created  
19 a strong local economy for the Peconic Bay region, it has resulted in a  
20 housing crisis for local families. The demand for seasonal homes has  
21 driven up housing costs for local families. In the Peconic Bay region,  
22 more than 40% of all housing units are seasonal.

23 The unique demographics and economics in the Peconic Bay region that  
24 have historically contributed to the housing shortage have only been

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

LBD03098-01-1

1 exacerbated by the COVID-19 pandemic. The pandemic has resulted in a  
2 flight of residents from urban areas such as New York City to more rural  
3 areas such as the Peconic Bay region. The demand for housing in the  
4 region is currently at an all-time high. This increased demand has  
5 further driven up housing costs and has reduced the supply of housing  
6 units available for the local workforce. The increased demand for  
7 affordable housing opportunities resulting from the pandemic makes the  
8 need for increased community housing more acute.

9 In summary, the demand of land for luxury and seasonal homes and  
10 seasonal rentals has left a short supply of housing opportunities for  
11 moderate income and working class local residents. The pandemic has only  
12 exacerbated this problem. The Peconic Bay region requires a balanced  
13 housing policy where there exists a variety of housing types and oppor-  
14 tunities across the region's economic spectrum.

15 It is the public purpose of this legislation to give the towns of the  
16 Peconic Bay region the authority and resources needed to establish a  
17 dedicated fund to provide needed housing opportunities. Specifically,  
18 this legislation would permit each town to establish a community housing  
19 fund to increase housing opportunities in the region. Further, a town  
20 housing plan adhering to smart growth principles would be required to be  
21 approved and implemented to ensure that these new housing opportunities  
22 are enacted in the context of a comprehensive plan.

23 Said fund would be financed by a combination of state and local funds,  
24 including a 0.5% supplemental real estate transfer tax, which would be  
25 in addition to the existing 2% real estate transfer tax for the Peconic  
26 Bay region community preservation fund. The supplemental real estate  
27 transfer shall be enacted by a local law subject to a mandatory referen-  
28 dum.

29 In addition to the authorization of the supplemental real estate  
30 transfer tax, the exemption amounts from the entire real estate transfer  
31 tax would be increased to \$400,000 in the towns of Southampton, East  
32 Hampton and Shelter Island and to \$200,000 in the towns of Riverhead and  
33 Southold. This will insure that in the towns of East Hampton, Southamp-  
34 ton, and Shelter Island, the real estate transfer tax burden will be  
35 reduced for property transfers with a consideration under \$1,000,000.  
36 The real estate transfer tax would be reduced in the towns of Southold  
37 and Riverhead for property transfers with a consideration under  
38 \$400,000.

39 Finally, the purchase price limit for the exemption for first time  
40 homebuyers in the towns of East Hampton, Southampton and Shelter Island  
41 would be increased from 120% to 150% of the purchase price limit as  
42 defined by the state of New York mortgage agency. These amendments to  
43 the exemptions will mitigate any adverse impact from the transfer tax on  
44 the provision of community housing.

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

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

49 § 64-k. Peconic Bay region community housing fund. 1. Definitions. As  
50 used in this section, the following words and terms shall have the  
51 following meanings:

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

54 (b) "Community housing" means a primary residential property for an  
55 eligible individual that does not exceed one hundred fifty percent of  
56 the purchase price limits established by the state of New York mortgage

1 agency low interest rate loan program in non-target categories for  
2 Suffolk county in effect on the contract date for the sale of such prop-  
3 erty.

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

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

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

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

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

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

35 3. Purposes of the fund. The proceeds of the fund established pursuant  
36 to subdivision two of this section shall be utilized for the following  
37 purposes:

38 (a) the provision of financial assistance to first-time homebuyers who  
39 are residents of the town for the purchase of a first home. Such finan-  
40 cial assistance may be in the form of a grant or a loan.

41 (1) A town may provide financial assistance for the purchase of a  
42 first home to a first-time homebuyer who is a resident of the town or  
43 who is employed in the town. A resident of the town shall include a  
44 person who is currently a resident of the town or a non-resident who has  
45 been a resident within the past five years.

46 (2) Such financial assistance shall not exceed fifty percent of the  
47 purchase price of the home.

48 (3) If such financial assistance is in the form of a loan, such loan  
49 shall be repayable to the town pursuant to the terms agreed to between  
50 the recipient and the town, provided that any loan shall be fully repaid  
51 by the recipient upon the resale of the home.

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

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

3 (6) A town may provide financial assistance for community housing in  
4 conjunction with a public/private partnership for employer assisted  
5 housing.

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

8 (c) the actual production of community housing for sale to eligible  
9 individuals in conjunction with a public/private partnership, where the  
10 private partner agrees to comply with the profit guidelines of the New  
11 York state affordable housing corporation and the provisions of this  
12 section;

13 (d) the actual production and maintenance of community housing for  
14 rental to eligible individuals either by the town or the town housing  
15 authority; or in conjunction with a public/private partnership, where  
16 the private partner agrees to comply with the profit guidelines of the  
17 New York state affordable housing corporation and the provisions of this  
18 section;

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

22 (f) the acquisition of interests in real property in existing housing  
23 units, which will result in the production of community housing for sale  
24 or rental to eligible individuals; and

25 (g) the provision of housing counseling services by not-for-profit  
26 corporations who are authorized by the United States department of hous-  
27 ing and urban development to provide such services.

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

36 5. Eligible expenses. For the purposes of this section, eligible  
37 expenses relating to the production of community housing and the reha-  
38 bilitation of existing buildings and structures under the fund shall  
39 include but not be limited to land acquisition, planning, engineering,  
40 construction costs, and other hard and soft costs directly related to  
41 the construction, rehabilitation, purchase or rental of housing pursuant  
42 to this section. All revenues received by the town from the sale or  
43 rental of community homes, or the repayment of loans shall be deposited  
44 in the fund.

45 6. Advisory board established. The town board of any town in the  
46 Peconic Bay region which has established a community housing fund pursu-  
47 ant to this section shall create an advisory board to review and make  
48 recommendations regarding the town's community housing plan required by  
49 subdivision seven of this section. Such board shall consist of not less  
50 than seven nor more than fifteen legal residents of the municipality who  
51 shall serve without compensation. No member of the local legislative  
52 body shall serve on the board. The board shall include a representative  
53 of: (a) the construction industry; (b) the real estate industry; (c) the  
54 banking industry; and three representatives of local housing advocacy or  
55 human services organizations. Where a village or villages, located with-  
56 in the town, have elected to participate in the fund, as provided in

1 subdivision seven of this section, the board shall include at least one  
2 resident of a participating village or villages. Where an Indian nation  
3 is located within the boundaries of a town, the board shall include at  
4 least one member from such nation. The board shall act in an advisory  
5 capacity to the town board.

6 7. Adoption of housing plan. (a) Before a town in the Peconic Bay  
7 region may expend any funds pursuant to this section, the town board  
8 shall first adopt a town housing plan which establishes an implementa-  
9 tion plan for the provision of community housing opportunities by the  
10 fund. Said plan shall be adopted by local law. Such plan shall adhere to  
11 the following smart growth principles:

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

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

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

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

28 (5) Community design. To strengthen communities through development  
29 and redevelopment strategies that include integration of all income and  
30 age groups, mixed land uses, and compact development, traditional neigh-  
31 borhood development, planned unit development, open space districts,  
32 downtown revitalization, brownfield redevelopment, enhanced beauty in  
33 public spaces, and diverse and community housing in close proximity to  
34 places of employment, recreation, and commercial development;

35 (6) Transportation. To provide transportation choices, including  
36 increasing public transit and alternative modes of transportation, in  
37 order to reduce automobile dependency, traffic congestion, and automo-  
38 bile pollution;

39 (7) Consistency. To ensure predictability in building and land use  
40 codes; and

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

46 (b) Such plan may include the establishment of a map or maps that  
47 delineate the housing implementation recommendations proposed by the  
48 town.

49 (c) Such plan shall be updated at least once every five years.

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

52 (e) Such plan shall ensure that all community housing created pursuant  
53 to this section remains affordable. Subsequent purchasers of such commu-  
54 nity housing shall have at the time of purchase, pursuant to the defi-  
55 nition "eligible individual", an income that does not exceed one hundred  
56 percent of the income limits as established by the state of New York

1 mortgage agency low interest rate loan program in non-target categories  
2 for Suffolk county.

3 (f) Such plan shall provide for the equitable distribution of communi-  
4 ty housing opportunities among all the communities of the town. The plan  
5 shall ensure that no community has an undue concentration of community  
6 housing opportunities that would substantially alter the character of  
7 the community. In determining equitable distribution of community hous-  
8 ing opportunities, existing community housing opportunities in a commu-  
9 nity shall be considered.

10 8. Village participation. (a) The participation of any village in the  
11 production of community housing authorized by this section shall be at  
12 the option of the village. In order to participate, a village shall pass  
13 a resolution opting into the program and shall submit said resolution to  
14 the town board.

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

20 (c) Regardless of whether a village participates in the program  
21 authorized by this section, properties in the village shall be subject  
22 to the supplemental real estate transfer tax authorized by subdivision  
23 two of section fourteen hundred forty-nine-bb of the tax law.

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

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

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

1 the foregoing, prior to adoption of such local law, the town must estab-  
2 lish a community housing fund pursuant to section sixty-four-k of the  
3 town law. Revenues from such supplemental tax shall be deposited in such  
4 fund and may be used solely for the purposes of such fund. Such local  
5 law shall apply to any conveyance occurring on or after the first day of  
6 a month to be designated by such town board, which is not less than  
7 sixty days after the enactment of such local law, but shall not apply to  
8 conveyances made on or after such date pursuant to binding written  
9 contracts entered into prior to such date, provided that the date of  
10 execution of such contract is confirmed by independent evidence such as  
11 the recording of the contract, payment of a deposit or other facts and  
12 circumstances as determined by the treasurer. Any tax imposed pursuant  
13 to this subdivision shall be administered and collected in a like manner  
14 as the tax imposed by subdivision one of this section.

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

17 3. (a) In the towns of East Hampton, Shelter Island and Southampton,  
18 an exemption of [~~two~~] four hundred [~~fifty~~] thousand dollars shall be  
19 allowed on the consideration of the conveyance of improved real property  
20 or an interest therein and an exemption of one hundred thousand dollars  
21 shall be allowed on the consideration of the conveyance of unimproved  
22 real property.

23 (b) In the towns of Riverhead and Southold, an exemption of [~~one~~] two  
24 hundred [~~fifty~~] thousand dollars shall be allowed on the consideration  
25 of the conveyance of improved real property or an interest therein and  
26 an exemption of seventy-five thousand dollars shall be allowed on the  
27 consideration of the conveyance of unimproved real property.

28 (c) The exemption granted pursuant to the provisions of this subdivi-  
29 sion shall only apply to conveyances for residential property where the  
30 consideration is two million dollars or less.

31 § 6. Subparagraph 1 of paragraph (a) of subdivision 4 of section  
32 1449-ee of the tax law, as amended by chapter 389 of the laws of 2014,  
33 is amended to read as follows:

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

40 § 7. Severability clause. If any provision of this act or application  
41 thereof shall for any reason be adjudged by any court of competent  
42 jurisdiction to be invalid, such judgment shall not affect, impair, or  
43 invalidate the remainder of the act, but shall be confined in its opera-  
44 tion to the provision directly involved in the controversy in which the  
45 judgment shall have been rendered.

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