

# STATE OF NEW YORK

7496--A

2023-2024 Regular Sessions

## IN ASSEMBLY

May 25, 2023

Introduced by M. of A. BARRETT, THIELE, DICKENS, LEVENBERG, LUNSFORD, LUCAS -- read once and referred to the Committee on Local Governments -- recommitted to the Committee on Local Government in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general municipal law, in relation to authorizing cities and towns, except a city with a population of one million or more, to establish community housing funds; to amend the tax law, in relation to authorizing cities and towns, except a city with a population of one million or more, to impose a real estate transfer tax with revenues therefrom to be deposited in such funds; and providing for the repeal of certain provisions of law relating thereto

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-w to read as follows:

3 § 6-w. Community housing fund. 1. Definitions. As used in this  
4 section, the following words and terms shall have the following mean-  
5 ings:

6 (a) "City or town" means a city, except a city with a population of  
7 one million or more, or a town.

8 (b) "Community housing" means a primary residential property for an  
9 eligible individual. The governing body shall establish, by local law,  
10 purchase price limit for community housing, provided that limit shall  
11 not exceed one hundred fifty percent of the purchase price limits estab-  
12 lished by the state of New York mortgage agency low interest rate loan  
13 program in non-target categories for the county in effect on the  
14 contract date for the sale of such property. Community housing shall  
15 include apartments that are accessory to a legally established residen-  
16 tial or commercial use.

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

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

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

5 (e) "First-time homebuyer" means an eligible individual who has not  
6 owned a primary residential property and is not married to a person who  
7 has owned a residential property during the three-year period prior to  
8 such person's purchase of the primary residential property, and who does  
9 not own a vacation or investment home.

10 (f) "Primary residential property" means any one or two family house,  
11 townhouse, or condominium, including accessory apartments.

12 (g) "Eligible individual" shall be defined by the governing body, by  
13 local law, provided that the definition of household income in such  
14 local law shall not exceed one hundred percent of the income limits as  
15 established by the state of New York mortgage agency low interest rate  
16 loan program in non-target categories for the county in effect on the  
17 contract date for the sale of such property.

18 (h) "Governing body" means a city council or town board.

19 2. Fund authorized. Cities and towns are authorized to establish, by  
20 local law, a community housing fund, pursuant to the provisions of this  
21 section. Deposits into the fund may include revenues of the local  
22 government from whatever source, including but not limited to: (a) all  
23 revenues from the supplemental real estate transfer tax authorized by  
24 section fifteen hundred seventy-six of the tax law; (b) all proceeds  
25 from any indebtedness or obligations issued pursuant to the local  
26 finance law for community housing opportunity purposes as authorized in  
27 subdivision three of this section; (c) general fund balances or surplus-  
28 es; (d) any proceeds received by the local government from the sale or  
29 rental of community housing produced from revenues of the fund; (e) the  
30 repayment of any loans issued from proceeds of the fund; (f) any gifts  
31 of interests in land or funds; and (g) any state or federal grants  
32 received by the city or town for providing affordable homes.

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

36 (a) the provision of financial assistance to first-time homebuyers who  
37 are residents of the city or town for the purchase of a first home. Such  
38 financial assistance may be in the form of a grant or a loan and such  
39 program shall meet the following criteria:

40 (1) A city or town may provide financial assistance for the purchase  
41 of a first home to a first-time homebuyer who is a resident of the city  
42 or town or who is employed in the city or town. A resident of the city  
43 or town shall include a person who is currently a resident of the city  
44 or town or a non-resident who has been a resident within the past five  
45 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 city or town pursuant to the terms agreed to  
50 between the recipient and the city or town, provided that any loan shall  
51 be fully repaid by the recipient upon the resale of the home.

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

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

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

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

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

22 (f) the acquisition of interests in real property in existing housing  
23 stock, 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 ilitation 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 city or town from the sale  
43 or rental of community housing, or the repayment of loans shall be  
44 deposited in the fund.

45 6. Advisory board established. The governing body of any city or town  
46 which has established a community housing fund pursuant to this section  
47 shall create an advisory board to review and make recommendations  
48 regarding the city or town's community housing plan required by subdivi-  
49 sion seven of this section. Such board shall consist of not less than  
50 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 a town, elect to participate in the fund, as provided in subdivision

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

6 7. Adoption of housing plan. (a) Before a city or town may expend any  
7 funds pursuant to this section, the governing body shall first adopt a  
8 housing plan which establishes an implementation plan for the provision  
9 of community housing opportunities by the fund. Said plan shall be  
10 adopted by local law. Such plan shall adhere to the following princi-  
11 ples:

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 automom-  
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 plans that include long term land use and permit predictability and  
44 coordination, efficient decision making and planning implementation.

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

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

49 (d) The housing plan shall be an element of the city or town compre-  
50 hensive plan.

51 (e) Such plan shall ensure that all community housing, created pursu-  
52 ant to this section, remains affordable. Subsequent purchasers of such  
53 community housing, at the time of purchase, shall be eligible individ-  
54 uals as defined herein.

55 (f) Such plan shall provide for the equitable distribution of communi-  
56 ty housing opportunities among all the communities of the city or town.

The plan shall ensure that no community has an undue concentration of community housing opportunities that would substantially alter the character of the community. In determining equitable distribution of community housing opportunities, existing community housing opportunities in a community shall be considered.

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

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

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

§ 2. The tax law is amended by adding a new article 33-C to read as follows:

#### ARTICLE 33-C

##### TAX ON REAL ESTATE TRANSFERS IN CITIES OR TOWNS

##### Section 1575. Definitions.

1576. Imposition of tax.

1577. Payment of tax.

1578. Liability for tax.

1579. Exemptions.

1580. Credit.

1581. Cooperative housing corporation transfers.

1582. Designation of agents.

1583. Liability of recording officer.

1584. Deposit and disposition of revenue.

1585. Judicial review.

1586. Apportionment.

1587. Miscellaneous.

1588. Returns to be secret.

1589. Foreclosure proceedings.

§ 1575. Definitions. When used in this article, unless otherwise expressly stated, the following words and terms shall have the following meanings:

1. "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.

2. "Controlling interest" means (a) in the case of a corporation, either fifty percent or more of the total combined voting power of all classes of stock of such corporation, or fifty percent or more of the capital, profits or beneficial interest in such voting stock of such corporation, and (b) in the case of a partnership, association, trust or other entity, fifty percent or more of the capital, profits or beneficial interest in such partnership, association, trust or other entity.

1 3. "Real property" means every estate or right, legal or equitable,  
2 present or future, vested or contingent, in lands, tenements or heredi-  
3 taments, including buildings, structures and other improvements thereon,  
4 which are located in whole or in part within any city or town. It shall  
5 not include rights to sepulture.

6 4. "Consideration" means the price actually paid or required to be  
7 paid for the real property or interest therein, including payment for an  
8 option or contract to purchase real property, whether or not expressed  
9 in the deed and whether paid or required to be paid by money, property,  
10 or any other thing of value. It shall include the cancellation or  
11 discharge of an indebtedness or obligation. It shall also include the  
12 amount of any mortgage, purchase money mortgage, lien or other encum-  
13 brance, whether or not the underlying indebtedness is assumed or taken  
14 subject to.

15 (a) In the case of a creation of a leasehold interest or the granting  
16 of an option with use and occupancy of real property, consideration  
17 shall include, but not be limited to, the value of the rental and other  
18 payments attributable to the use and occupancy of the real property or  
19 interest therein, the value of any amount paid for an option to purchase  
20 or renew and the value of rental or other payments attributable to the  
21 exercise of any option to renew.

22 (b) In the case of a creation of a subleasehold interest, consider-  
23 ation shall include, but not be limited to, the value of the sublease  
24 rental payments attributable to the use and occupancy of the real prop-  
25 erty, the value of any amount paid for an option to renew and the value  
26 of rental or other payments attributable to the exercise of any option  
27 to renew less the value of the remaining prime lease rental payments  
28 required to be made.

29 (c) In the case of a controlling interest in any entity that owns real  
30 property, consideration shall mean the fair market value of the real  
31 property or interest therein, apportioned based on the percentage of the  
32 ownership interest transferred or acquired in the entity.

33 (d) In the case of an assignment or surrender of a leasehold interest  
34 or the assignment or surrender of an option or contract to purchase real  
35 property, consideration shall not include the value of the remaining  
36 rental payments required to be made pursuant to the terms of such lease  
37 or the amount to be paid for the real property pursuant to the terms of  
38 the option or contract being assigned or surrendered.

39 (e) In the case of (1) the original conveyance of shares of stock in a  
40 cooperative housing corporation in connection with the grant or transfer  
41 of a proprietary leasehold by the cooperative corporation or cooperative  
42 plan sponsor, and (2) the subsequent conveyance by the owner thereof of  
43 such stock in a cooperative housing corporation in connection with the  
44 grant or transfer of a proprietary leasehold for a cooperative unit  
45 other than an individual residential unit, consideration shall include a  
46 proportionate share of the unpaid principal of any mortgage on the real  
47 property of the cooperative housing corporation comprising the cooper-  
48 ative dwelling or dwellings. Such share shall be determined by multiply-  
49 ing the total unpaid principal of the mortgage by a fraction, the numer-  
50 ator of which shall be the number of shares of stock being conveyed in  
51 the cooperative housing corporation in connection with the grant or  
52 transfer of a proprietary leasehold and the denominator of which shall  
53 be the total number of shares of stock in the cooperative housing corpo-  
54 ration.

55 5. "Conveyance" means the transfer or transfers of any interest in  
56 real property by any method, including but not limited to, sale,

1 exchange, assignment, surrender, mortgage foreclosure, transfer in lieu  
2 of foreclosure, option, trust indenture, taking by eminent domain,  
3 conveyance upon liquidation or by a receiver, or transfer or acquisition  
4 of a controlling interest in any entity with an interest in real proper-  
5 ty. Transfer of an interest in real property shall include the creation  
6 of a leasehold or sublease only where (a) the sum of the term of the  
7 lease or sublease and any options for renewal exceeds forty-nine years,  
8 (b) substantial capital improvements are or may be made by or for the  
9 benefit of the lessee or sublessee, and (c) the lease or sublease is for  
10 substantially all of the premises constituting the real property.  
11 Notwithstanding the foregoing, conveyance of real property shall not  
12 include a conveyance made pursuant to devise, bequest or inheritance;  
13 the creation, modification, extension, spreading, severance, consol-  
14 idation, assignment, transfer, release or satisfaction of a mortgage; a  
15 mortgage subordination agreement, a mortgage severance agreement, an  
16 instrument given to perfect or correct a recorded mortgage; or a release  
17 of lien of tax pursuant to this chapter or the internal revenue code.

18 6. "Interest in the real property" includes title in fee, a leasehold  
19 interest, a beneficial interest, an encumbrance, development rights, air  
20 space and air rights, or any other interest with the right to use or  
21 occupancy of real property or the right to receive rents, profits or  
22 other income derived from real property. It shall also include an option  
23 or contract to purchase real property. It shall not include a right of  
24 first refusal to purchase real property.

25 7. "Grantor" means the person making the conveyance of real property  
26 or interest therein. Where the conveyance consists of a transfer or an  
27 acquisition of a controlling interest in an entity with an interest in  
28 real property, "grantor" means the entity with an interest in real prop-  
29 erty or a shareholder or partner transferring stock or partnership  
30 interest, respectively.

31 8. "Grantee" means the person who obtains real property or interest  
32 therein as a result of a conveyance.

33 9. "Community housing fund" means a community fund created pursuant to  
34 section six-w of the general municipal law.

35 10. "Recording officer" means the county clerk.

36 11. "City or town" means a city or town, except a city of one million  
37 or more.

38 12. "Treasurer" means the county treasurer.

39 § 1576. Imposition of tax. Notwithstanding any other provisions of law  
40 to the contrary, any city or town, acting through its governing body, is  
41 hereby authorized and empowered to adopt a local law imposing in such  
42 city or town a supplemental tax on each conveyance of real property or  
43 interest therein where the consideration exceeds five hundred dollars,  
44 at the rate of up to one half of one percent of the consideration for  
45 such conveyance. Provided, however, any such local law imposing, repeal-  
46 ing or re-imposing such supplemental tax shall be subject to a mandatory  
47 referendum pursuant to section twenty-three of the municipal home rule  
48 law. Notwithstanding the foregoing, prior to adoption of such local  
49 law, the city or town must establish a community housing fund pursuant  
50 to section six-w of the general municipal law. Revenues from such  
51 supplemental tax shall be deposited in such community housing fund and  
52 may be used solely for the purposes of such community housing fund. Such  
53 local law shall apply to any conveyance occurring on or after the first  
54 day of a month to be designated by the governing board, which is not  
55 less than sixty days after the enactment of such local law, but shall  
56 not apply to conveyances made on or after such date pursuant to binding

1 written contracts entered into prior to such date, provided that the  
2 date of execution of such contract is confirmed by independent evidence  
3 such as the recording of the contract, payment of a deposit or other  
4 facts and circumstances as determined by the treasurer.

5 § 1577. Payment of tax. 1. The real estate transfer tax imposed pursu-  
6 ant to this article shall be paid to the treasurer or the recording  
7 officer acting as the agent of the treasurer upon designation as such  
8 agent by the treasurer. Such tax shall be paid at the same time as the  
9 real estate transfer tax imposed by article thirty-one of this chapter  
10 is required to be paid. Such treasurer or recording officer shall  
11 endorse upon each deed or instrument effecting a conveyance a receipt  
12 for the amount of the tax so paid.

13 2. A return shall be required to be filed with such treasurer or  
14 recording officer for purposes of the real estate transfer tax imposed  
15 pursuant to this article at the same time as a return is required to be  
16 filed for purposes of the real estate transfer tax imposed by article  
17 thirty-one of this chapter. The treasurer shall prescribe the form of  
18 return, the information which it shall contain, and the documentation  
19 that shall accompany the return. Said form shall be identical to the  
20 real estate transfer tax return required to be filed pursuant to section  
21 fourteen hundred nine of this chapter, except that the treasurer shall  
22 adapt said form to reflect the provisions in this chapter that are  
23 inconsistent, different, or in addition to the provisions of article  
24 thirty-one of this chapter. The real estate transfer tax returns  
25 required to be filed pursuant to this section shall be preserved for  
26 three years and thereafter until such treasurer or recording officer  
27 orders them to be destroyed.

28 3. The recording officer shall not record an instrument effecting a  
29 conveyance unless the return required by this section has been filed and  
30 the tax imposed pursuant to this article shall have been paid as  
31 required in this section.

32 § 1578. Liability for tax. 1. The real estate transfer tax shall be  
33 paid by the grantee. If the grantee has failed to pay the tax imposed  
34 pursuant to this article or if the grantee is exempt from such tax, the  
35 grantor shall have the duty to pay the tax. Where the grantor has the  
36 duty to pay the tax because the grantee has failed to pay the tax, such  
37 tax shall be the joint and several liability of the grantee and the  
38 grantor.

39 2. For the purpose of the proper administration of this article and to  
40 prevent evasion of the tax hereby imposed, it shall be presumed that all  
41 conveyances are taxable. Where the consideration includes property other  
42 than money, it shall be presumed that the consideration is the fair  
43 market value of the real property or interest therein. These presump-  
44 tions shall prevail until the contrary is proven, and the burden of  
45 proving the contrary shall be on the person liable for payment of the  
46 tax.

47 § 1579. Exemptions. 1. The following shall be exempt from the payment  
48 of the real estate transfer tax: (a) the state of New York, or any of  
49 its agencies, instrumentalities, political subdivisions, or public  
50 corporations, including a public corporation created pursuant to an  
51 agreement or compact with another state or Canada; and

52 (b) the United Nations, the United States of America or any of its  
53 agencies or instrumentalities.

54 2. The tax shall not apply to any of the following conveyances: (a)  
55 conveyances to the United Nations, the United States of America, the  
56 state of New York, or any of their instrumentalities, agencies or poli-

1 tical subdivisions, or any public corporation, including a public corpo-  
2 ration created pursuant to agreement or compact with another state or  
3 the Dominion of Canada; (b) conveyances which are or were used to secure  
4 a debt or other obligation; (c) conveyances which, without additional  
5 consideration, confirm, correct, modify or supplement a deed previously  
6 recorded; (d) conveyances of real property without consideration and  
7 otherwise than in connection with a sale, including deeds conveying  
8 realty as bona fide gifts; (e) conveyances given in connection with a  
9 tax sale; (f) conveyances to effectuate a mere change of identity or  
10 form of ownership or organization where there is no change in beneficial  
11 ownership, other than conveyances to a cooperative housing corporation  
12 of the real property comprising the cooperative dwelling or dwellings;  
13 (g) conveyances which consist of a deed of partition; (h) conveyances  
14 given pursuant to the federal bankruptcy act; (i) conveyances of real  
15 property which consist of the execution of a contract to sell real prop-  
16 erty without the use or occupancy of such property or the granting of an  
17 option to purchase real property without the use or occupancy of such  
18 property; (j) conveyances of real property, where the entire parcel of  
19 real property to be conveyed is the subject of one or more of the  
20 following development restrictions: (1) agricultural, conservation,  
21 scenic, or an open space easement, (2) covenants or restrictions prohib-  
22 iting development, (3) a purchase of development rights agreement, (4) a  
23 transfer of development rights agreement, where the property being  
24 conveyed has had its development rights removed, (5) said real property  
25 is subject to the development restriction of an agricultural district or  
26 individual commitment, pursuant to article twenty-five-AA of the agri-  
27 culture and markets law, (6) real property subject to any locally  
28 adopted land preservation agreement, provided said exemption is included  
29 in the local law imposing the tax authorized by this article; (k)  
30 conveyances of real property, where the property is viable agricultural  
31 land as defined in subdivision seven of section three hundred one of the  
32 agriculture and markets law and the entire property to be conveyed is to  
33 be made subject to one of the development restrictions provided for in  
34 subparagraph two of paragraph (j) of this subdivision provided that said  
35 development restriction precludes the conversion of the property to a  
36 non-agricultural use for at least three years from the date of transfer,  
37 and said development restriction is evidenced by an easement, agreement,  
38 or other suitable instrument which is to be conveyed to the city or town  
39 simultaneously with the conveyance of the real property; or (l) convey-  
40 ances of real property for open space, parks, community housing, or  
41 historic preservation purposes to any not-for-profit tax exempt corpo-  
42 ration operated for conservation, environmental, community housing or  
43 historic preservation purposes.

44 3. The governing body of a city or town, by local law may establish a  
45 community housing exemption from the payment of the real estate transfer  
46 tax. Such exemption may not exceed an amount equal to the residential  
47 median sale price of the county in which the city or town is located, as  
48 determined by the office of real property services within the department  
49 of taxation and finance. Such exemption shall be allowed on the consid-  
50 eration of the conveyance of improved real property or an interest ther-  
51 ein. The exemption granted pursuant to the provisions of this subdivi-  
52 sion shall only apply to conveyances for residential property where the  
53 consideration is two million dollars or less.

54 § 1580. Credit. A grantee shall be allowed a credit against the tax  
55 due on a conveyance of real property to the extent tax was paid by such  
56 grantee on a prior creation of a leasehold of all or a portion of the

1 same real property or on the granting of an option or contract to  
2 purchase all or a portion of the same real property by such grantee.  
3 Such credit shall be computed by multiplying the tax paid on the  
4 creation of the leasehold or on the granting of the option or contract  
5 by a fraction, the numerator of which is the value of the consideration  
6 used to compute such tax paid which is not yet due to such grantor on  
7 the date of the subsequent conveyance (and which such grantor will not  
8 be entitled to receive after such date), and the denominator of which is  
9 the total value of the consideration used to compute such tax paid.

10 § 1581. Cooperative housing corporation transfers. 1. Notwithstanding  
11 the definition of "controlling interest" contained in subdivision two of  
12 section fifteen hundred seventy-five of this article or anything to the  
13 contrary contained in subdivision five of section fifteen hundred seven-  
14 ty-five of this article, the tax imposed pursuant to this article shall  
15 apply to (a) the original conveyance of shares of stock in a cooperative  
16 housing corporation in connection with the grant or transfer of a  
17 proprietary leasehold by the cooperative corporation or cooperative plan  
18 sponsor, and (b) the subsequent conveyance of such stock in a cooper-  
19 ative housing corporation in connection with the grant or transfer of a  
20 proprietary leasehold by the owner thereof. With respect to any such  
21 subsequent conveyance where the property is an individual residential  
22 unit, the consideration for the interest conveyed shall exclude the  
23 value of any liens on certificates of stock or other evidences of an  
24 ownership interest in and a proprietary lease from a corporation or  
25 partnership formed for the purpose of cooperative ownership of residen-  
26 tial interest in real estate remaining thereon at the time of convey-  
27 ance. In determining the tax on a conveyance described in paragraph (a)  
28 of this subdivision, a credit shall be allowed for a proportionate part  
29 of the amount of any tax paid upon the conveyance to the cooperative  
30 housing corporation of the real property comprising the cooperative  
31 dwelling or dwellings to the extent that such conveyance effectuated a  
32 mere change of identity or form of ownership of such property and not a  
33 change in the beneficial ownership of such property. The amount of the  
34 credit shall be determined by multiplying the amount of tax paid upon  
35 the conveyance to the cooperative housing corporation by a percentage  
36 representing the extent to which such conveyance effectuated a mere  
37 change of identity or form of ownership and not a change in the benefi-  
38 cial ownership of such property, and then multiplying the resulting  
39 product by a fraction, the numerator of which shall be the number of  
40 shares of stock conveyed in a transaction described in paragraph (a) of  
41 this subdivision, and the denominator of which shall be the total number  
42 of shares of stock of the cooperative housing corporation, including any  
43 stock held by the corporation. In no event, however, shall such credit  
44 reduce the tax, on a conveyance described in paragraph (a) of this  
45 subdivision, below zero, nor shall any such credit be allowed for a tax  
46 paid more than twenty-four months prior to the date on which occurs the  
47 first in a series of conveyances of shares of stock in an offering of  
48 cooperative housing corporation shares described in paragraph (a) of  
49 this subdivision.

50 2. Every cooperative housing corporation shall be required to file an  
51 information return with the treasurer by July fifteenth of each year  
52 covering the preceding period of January first through June thirtieth  
53 and by January fifteenth of each year covering the preceding period of  
54 July first through December thirty-first. The return shall contain such  
55 information regarding the conveyance of shares of stock in the cooper-  
56 ative housing corporation as the treasurer may deem necessary, includ-

1 ing, but not limited to, the names, addresses and employee identifica-  
2 tion numbers or social security numbers of the grantor and the grantee,  
3 the number of shares conveyed, the date of the conveyance and the  
4 consideration paid for such conveyance.

5 § 1582. Designation of agents. The treasurer is authorized to design-  
6 ate the recording officer to act as the treasurer's agent for purposes  
7 of collecting the tax authorized by this article. The treasurer shall  
8 provide for the manner in which such person may be designated as the  
9 treasurer's agent subject to such terms and conditions as the treasurer  
10 shall prescribe. The real estate transfer tax shall be paid to such  
11 agent as provided in section fifteen hundred seventy-seven of this arti-  
12 cle.

13 § 1583. Liability of recording officer. A recording officer shall not  
14 be liable for any inaccuracy in the amount of tax imposed pursuant to  
15 this article that such officer shall collect so long as such officer  
16 shall compute and collect such tax on the amount of consideration or the  
17 value of the interest conveyed as such amounts are provided to such  
18 officer by the person paying the tax.

19 § 1584. Deposit and disposition of revenue. 1. All taxes, penalties  
20 and interest imposed by the city or town under the authority of section  
21 fifteen hundred seventy-six of this article, which are collected by the  
22 treasurer or such treasurer's agents, shall be deposited in a single  
23 trust fund for the city or town and shall be kept in trust and separate  
24 and apart from all other monies in possession of the treasurer. Moneys  
25 in such fund shall be deposited and secured in the manner provided by  
26 section ten of the general municipal law. Pending expenditure from such  
27 fund, moneys therein may be invested in the manner provided in section  
28 eleven of the general municipal law. Any interest earned or capital gain  
29 realized on the moneys so deposited or invested shall accrue to and  
30 become part of such fund.

31 2. The treasurer shall retain such amount as they may determine to be  
32 necessary for refunds with respect to the tax imposed by the city or  
33 town, under the authority of section fifteen hundred seventy-six of this  
34 article, out of which the treasurer shall pay any refunds of such taxes  
35 to those taxpayers entitled to a refund pursuant to the provisions of  
36 this article.

37 3. The treasurer, after reserving such refunds, shall on or before the  
38 twelfth day of each month pay to the city comptroller or the town super-  
39 visor the taxes, penalties and interest imposed by the city or town  
40 under the authority of section fifteen hundred seventy-six of this arti-  
41 cle, collected by the treasurer, pursuant to this article during the  
42 next preceding calendar month. The amount so payable shall be certified  
43 to the city comptroller or the town supervisor by the treasurer, who  
44 shall not be held liable for any inaccuracy in such certification.  
45 Provided, however, any such certification may be based on such informa-  
46 tion as may be available to the treasurer at the time such certification  
47 must be made under this section. Where the amount so paid over to the  
48 city or town in any such distribution is more or less than the amount  
49 due to the city or town, the amount of the overpayment or underpayment  
50 shall be certified to the city comptroller or the town supervisor by the  
51 treasurer, who shall not be held liable for any inaccuracy in such  
52 certification. The amount of the overpayment or underpayment shall be so  
53 certified to the city comptroller or the town supervisor as soon after  
54 the discovery of the overpayment or underpayment as reasonably possible  
55 and subsequent payments and distributions by the treasurer to such city  
56 or town shall be adjusted by subtracting the amount of any such overpay-

1 ment from or by adding the amount of any such underpayment to such  
2 number of subsequent payments and distributions as the treasurer and  
3 city comptroller or town supervisor shall consider reasonable in view of  
4 the overpayment or underpayment and all other facts and circumstances.

5 4. All monies received from the treasurer shall be deposited in the  
6 appropriate fund of the city or town, pursuant to section six-w of the  
7 general municipal law.

8 § 1585. Judicial review. 1. Any final determination of the amount of  
9 any tax payable under section fifteen hundred seventy-eight of this  
10 article shall be reviewable for error, illegality or unconstitutionality  
11 or any other reason whatsoever by a proceeding under article seventy-  
12 eight of the civil practice law and rules if application therefor is  
13 made to the supreme court within four months after the giving of the  
14 notice of such final determination, provided, however, that any such  
15 proceeding under article seventy-eight of the civil practice law and  
16 rules shall not be instituted unless (a) the amount of any tax sought to  
17 be reviewed, with such interest and penalties thereon as may be provided  
18 for by local law shall be first deposited and there is filed an under-  
19 taking, issued by a surety company authorized to transact business in  
20 this state and approved by the state superintendent of insurance as to  
21 solvency and responsibility, in such amount as a justice of the supreme  
22 court shall approve to the effect that if such proceeding be dismissed  
23 or the tax confirmed the petitioner will pay all costs and charges which  
24 may accrue in the prosecution of such proceeding or (b) at the option of  
25 the petitioner, such undertaking may be in a sum sufficient to cover the  
26 taxes, interest and penalties stated in such determination, plus the  
27 costs and charges which may accrue against it in the prosecution of the  
28 proceeding, in which event the petitioner shall not be required to pay  
29 such taxes, interest or penalties as a condition precedent to the appli-  
30 cation.

31 2. Where any tax imposed hereunder shall have been erroneously, ille-  
32 gally or unconstitutionally assessed or collected and application for  
33 the refund or revision thereof duly made to the proper fiscal officer or  
34 officers, and such officer or officers shall have made a determination  
35 denying such refund or revision, such determination shall be reviewable  
36 by a proceeding under article seventy-eight of the civil practice law  
37 and rules; provided, however, that (a) such proceeding is instituted  
38 within four months after the giving of the notice of such denial, (b) a  
39 final determination of tax due was not previously made, and (c) an  
40 undertaking is filed with the proper fiscal officer or officers in such  
41 amount and with such sureties as a justice of the supreme court shall  
42 approve to the effect that if such proceeding be dismissed or the tax  
43 confirmed, the petitioner will pay all costs and charges which may  
44 accrue in the prosecution of such proceeding.

45 § 1586. Apportionment. A local law adopted by any city or town, pursu-  
46 ant to this article, shall provide for a method of apportionment for  
47 determining the amount of tax due whenever the real property or interest  
48 therein is situated within and without the city or town.

49 § 1587. Miscellaneous. A local law adopted by any city or town, pursu-  
50 ant to this article, may contain such other provisions as the city or  
51 town deems necessary for the proper administration of the tax imposed  
52 pursuant to this article, including provisions concerning the determi-  
53 nation of tax, the imposition of interest on underpayments and overpay-  
54 ments and the imposition of civil penalties. Such provisions shall be  
55 identical to the corresponding provisions of the real estate transfer  
56 tax imposed by article thirty-one of this chapter, so far as such

1 provisions can be made applicable to the tax imposed pursuant to this  
2 article.

3 § 1588. Returns to be secret. 1. Except in accordance with proper  
4 judicial order or as otherwise provided by law, it shall be unlawful for  
5 the treasurer or any officer or employee of the county, city or town,  
6 including any person engaged or retained on an independent contract  
7 basis, to divulge or make known in any manner the particulars set forth  
8 or disclosed in any return required under a local law enacted pursuant  
9 to this article. Provided, however, that nothing in this section shall  
10 prohibit the recording officer from making a notation on an instrument  
11 affecting a conveyance indicating the amount of tax paid. No recorded  
12 instrument affecting a conveyance shall be considered a return for  
13 purposes of this section.

14 2. The officers charged with the custody of such returns shall not be  
15 required to produce any of them or evidence of anything contained in  
16 them in any action or proceeding in any court, except on behalf of the  
17 county, city, or town in any action or proceeding involving the  
18 collection of a tax due under a local law enacted pursuant to this arti-  
19 cle to which such county, city, or town is a party, or a claimant, or on  
20 behalf of any party to any action or proceeding under the provisions of  
21 a local law enacted pursuant to this article when the returns or facts  
22 shown thereby are directly involved in such action or proceeding, in any  
23 of which events the court may require the production of, and may admit  
24 in evidence, so much of said returns or of the facts shown thereby, as  
25 are pertinent to the action or proceeding and no more.

26 3. Nothing in this section shall be construed to prohibit the delivery  
27 to a grantor or grantee of an instrument effecting a conveyance or the  
28 duly authorized representative of a grantor or grantee of a certified  
29 copy of any return filed in connection with such instrument or to  
30 prohibit the publication of statistics so classified as to prevent the  
31 identification of particular returns and the items thereof, or the  
32 inspection by the legal representatives of such county, city, or town of  
33 the return of any taxpayer who shall bring action to set aside or review  
34 the tax based thereon.

35 4. Any officer or employee of such county, city, or town who willfully  
36 violates the provisions of this section shall be dismissed from office  
37 and be incapable of holding any public office in this state for a period  
38 of five years thereafter.

39 § 1589. Foreclosure proceedings. Where the conveyance consists of a  
40 transfer of property made as a result of an order of the court in a  
41 foreclosure proceeding ordering the sale of such property, the referee  
42 or sheriff effectuating such transfer shall not be liable for any inter-  
43 est or penalties that are authorized pursuant to this article or article  
44 thirty-seven of this chapter.

45 § 3. Severability. If any provision of this act or the application  
46 thereof shall for any reason be adjudged by any court of competent  
47 jurisdiction to be invalid, such judgment shall not affect, impair, or  
48 invalidate the remainder of this act, but shall be confined in its oper-  
49 ation to the provision thereof directly involved in the controversy in  
50 which such judgment shall have been rendered.

51 § 4. This act shall take effect immediately; provided, however, that  
52 section two of this act shall take effect on the ninetieth day after it  
53 shall have become a law and shall expire December 31, 2044 when upon  
54 such date the provisions of such section shall be deemed repealed.