

# STATE OF NEW YORK

7922--A

2025-2026 Regular Sessions

## IN ASSEMBLY

April 11, 2025

Introduced by M. of A. MAHER -- read once and referred to the Committee on Local Governments -- recommitted to the Committee on Local Governments 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 town law and the tax law, in relation to authorizing the town of Rochester 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. Short title. This act shall be known and may be cited as  
2 the "Town of Rochester community housing act".

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

5 § 64-m. Town of Rochester community housing fund. 1. Definitions. As  
6 used in this section, the following words and terms shall have the  
7 following meanings:

8 (a) "Town" means the town of Rochester.

9 (b) "Community housing" means a primary residential property for an  
10 eligible individual that does not exceed one hundred fifty percent of  
11 the purchase price limits established by the state of New York mortgage  
12 agency low interest rate loan program in non-target categories for  
13 Ulster county in effect on the contract date for the sale of such prop-  
14 erty.

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

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

19 (e) "First-time homebuyer" means an eligible individual who has not  
20 owned a primary residential property and is not married to a person who  
21 has owned a residential property during the three-year period prior to

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

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1 such person's purchase of the primary residential property, and who does  
2 not own a vacation or investment home.

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

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

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

25 3. Purposes of the fund. The proceeds of the fund established pursuant  
26 to subdivision two of this section shall be utilized for the following  
27 purposes:

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

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

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

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

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

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

48 (6) A town may provide financial assistance for community housing in  
49 conjunction with a public/private partnership for employer assisted  
50 housing.

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

53 (c) the actual production of community housing for sale to eligible  
54 individuals in conjunction with a public/private partnership, where the  
55 private partner agrees to comply with the profit guidelines of the New

1 York state affordable housing corporation and the provisions of this  
2 section;

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

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

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

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

51 7. Adoption of housing plan. (a) Before the town may expend any funds  
52 pursuant to this section, the town board shall first adopt a town hous-  
53 ing plan which establishes an implementation plan for the provision of  
54 community housing opportunities by the fund. Said plan shall be adopted  
55 by local law. Such plan shall adhere to the following smart growth prin-  
56 ciples:

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

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

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

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

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

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

28 (7) Consistency. To ensure predictability in building and land use  
29 codes; and

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

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

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

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

41 (e) Such plan shall ensure that all community housing created pursuant  
42 to this section remains affordable. Subsequent purchasers of such commu-  
43 nity housing shall have at the time of purchase, pursuant to the defi-  
44 nition "eligible individual", an income that does not exceed one hundred  
45 percent of the income limits as established by the state of New York  
46 mortgage agency low interest rate loan program in non-target categories  
47 for Ulster county.

48 (f) Such plan shall provide for the equitable distribution of communi-  
49 ty housing opportunities among all the communities of the town. The plan  
50 shall ensure that no community has an undue concentration of community  
51 housing opportunities that would substantially alter the character of  
52 the community. In determining equitable distribution of community hous-  
53 ing opportunities, existing community housing opportunities in a commu-  
54 nity shall be considered.

55 8. Village participation. (a) The participation of any village in the  
56 production of community housing authorized by this section shall be at

1 the option of the village. In order to participate, a village shall pass  
2 a resolution opting into the program and shall submit said resolution to  
3 the town board.

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

9 (c) Regardless of whether a village participates in the program  
10 authorized by this section, properties in the village shall be subject  
11 to the supplemental real estate transfer tax authorized by subdivision  
12 two of section fourteen hundred fifty-one-b of the tax law.

13 § 3. The tax law is amended by adding a new article 31-K to read as  
14 follows:

15 ARTICLE 31-K  
16 TAX ON REAL ESTATE TRANSFERS  
17 IN THE TOWN OF ROCHESTER

18 Section 1451-a. Definitions.

19 1451-b. Imposition of tax.

20 1451-c. Payment of tax.

21 1451-d. Liability for tax.

22 1451-e. Exemptions.

23 1451-f. Credit.

24 1451-g. Cooperative housing corporation transfers.

25 1451-h. Designation of agents.

26 1451-i. Liability of recording officer.

27 1451-j. Refunds.

28 1451-k. Deposit and disposition of revenue.

29 1451-l. Judicial review.

30 1451-m. Apportionment.

31 1451-n. Miscellaneous.

32 1451-o. Returns to be secret.

33 1451-p. Foreclosure proceedings.

34 § 1451-a. Definitions. When used in this article, unless otherwise  
35 expressly stated, the following words and terms shall have the following  
36 meanings:

37 1. "Person" means an individual, partnership, limited liability compa-  
38 ny, society, association, joint stock company, corporation, estate,  
39 receiver, trustee, assignee, referee or any other person acting in a  
40 fiduciary or representative capacity, whether appointed by a court or  
41 otherwise, any combination of individuals, and any other form of unin-  
42 corporated enterprise owned or conducted by two or more persons.

43 2. "Controlling interest" means (a) in the case of a corporation,  
44 either fifty percent or more of the total combined voting power of all  
45 classes of stock of such corporation, or fifty percent or more of the  
46 capital, profits or beneficial interest in such voting stock of such  
47 corporation, and (b) in the case of a partnership, association, trust or  
48 other entity, fifty percent or more of the capital, profits or benefi-  
49 cial interest in such partnership, association, trust or other entity.

50 3. "Real property" means every estate or right, legal or equitable,  
51 present or future, vested or contingent, in lands, tenements or heredi-  
52 taments, including buildings, structures and other improvements thereon,  
53 which are located in whole or in part within the town of Fishkill. It  
54 shall not include rights to sepulture.

55 4. "Consideration" means the price actually paid or required to be  
56 paid for the real property or interest therein, including payment for an

1 option or contract to purchase real property, whether or not expressed  
2 in the deed and whether paid or required to be paid by money, property,  
3 or any other thing of value. It shall include the cancellation or  
4 discharge of an indebtedness or obligation. It shall also include the  
5 amount of any mortgage, purchase money mortgage, lien or other encum-  
6 brance, whether or not the underlying indebtedness is assumed or taken  
7 subject to.

8 (a) In the case of a creation of a leasehold interest or the granting  
9 of an option with use and occupancy of real property, consideration  
10 shall include, but not be limited to, the value of the rental and other  
11 payments attributable to the use and occupancy of the real property or  
12 interest therein, the value of any amount paid for an option to purchase  
13 or renew and the value of rental or other payments attributable to the  
14 exercise of any option to renew.

15 (b) In the case of a creation of a subleasehold interest, consider-  
16 ation shall include, but not be limited to, the value of the sublease  
17 rental payments attributable to the use and occupancy of the real prop-  
18 erty, the value of any amount paid for an option to renew and the value  
19 of rental or other payments attributable to the exercise of any option  
20 to renew less the value of the remaining prime lease rental payments  
21 required to be made.

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

26 (d) In the case of an assignment or surrender of a leasehold interest  
27 or the assignment or surrender of an option or contract to purchase real  
28 property, consideration shall not include the value of the remaining  
29 rental payments required to be made pursuant to the terms of such lease  
30 or the amount to be paid for the real property pursuant to the terms of  
31 the option or contract being assigned or surrendered.

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

48 5. "Conveyance" means the transfer or transfers of any interest in  
49 real property by any method, including but not limited to, sale,  
50 exchange, assignment, surrender, mortgage foreclosure, transfer in lieu  
51 of foreclosure, option, trust indenture, taking by eminent domain,  
52 conveyance upon liquidation or by a receiver, or transfer or acquisition  
53 of a controlling interest in any entity with an interest in real proper-  
54 ty. Transfer of an interest in real property shall include the creation  
55 of a leasehold or sublease only where (a) the sum of the term of the  
56 lease or sublease and any options for renewal exceeds forty-nine years,

1 (b) substantial capital improvements are or may be made by or for the  
2 benefit of the lessee or sublessee, and (c) the lease or sublease is for  
3 substantially all of the premises constituting the real property.  
4 Notwithstanding the foregoing, conveyance of real property shall not  
5 include a conveyance made pursuant to devise, bequest or inheritance;  
6 the creation, modification, extension, spreading, severance, consol-  
7 idation, assignment, transfer, release or satisfaction of a mortgage; a  
8 mortgage subordination agreement, a mortgage severance agreement, an  
9 instrument given to perfect or correct a recorded mortgage; or a release  
10 of lien of tax pursuant to this chapter or the internal revenue code.

11 6. "Interest in the real property" includes title in fee, a leasehold  
12 interest, a beneficial interest, an encumbrance, development rights, air  
13 space and air rights, or any other interest with the right to use or  
14 occupancy of real property or the right to receive rents, profits or  
15 other income derived from real property. It shall also include an option  
16 or contract to purchase real property. It shall not include a right of  
17 first refusal to purchase real property.

18 7. "Grantor" means the person making the conveyance of real property  
19 or interest therein. Where the conveyance consists of a transfer or an  
20 acquisition of a controlling interest in an entity with an interest in  
21 real property, "grantor" means the entity with an interest in real prop-  
22 erty or a shareholder or partner transferring stock or partnership  
23 interest, respectively.

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

26 9. "Fund" means a community preservation fund created pursuant to  
27 section sixty-four-m of the town law.

28 10. "Recording officer" means the county clerk of the county of  
29 Ulster.

30 11. "Town" means the town of Rochester, county of Ulster.

31 12. "Treasurer" means the treasurer of the county of Ulster.

32 13. "Town supervisor" means the town supervisor of the town of Roches-  
33 ter.

34 14. "Tax" shall mean the real estate transfer tax imposed pursuant to  
35 section fourteen hundred fifty-one-b of this article or, if the context  
36 clearly indicates, shall mean the real estate transfer tax imposed  
37 pursuant to article thirty-one of this chapter.

38 15. "Residential real property" means property which satisfies at  
39 least one of the following conditions:

40 (a) the property classification code assigned to the property on the  
41 latest final assessment roll, as reported on the transfer report form,  
42 indicates that the property is a one, two or three family home or a  
43 rural residence; or

44 (b) the transfer report indicates that the property is a one, two or  
45 three family residential property that has been newly constructed on  
46 vacant land; or

47 (c) the transfer report form indicates that the property is a residen-  
48 tial condominium.

49 § 1451-b. Imposition of tax. Notwithstanding any other provisions of  
50 law to the contrary, in addition to the tax authorized by subdivision  
51 one of this section, the town, acting through its town board, is hereby  
52 authorized and empowered to adopt a local law imposing in such town a  
53 supplemental tax on each conveyance of real property or interest therein  
54 where the consideration exceeds five hundred dollars, at the rate of one  
55 percent of the consideration for such conveyance. Provided, however, any  
56 such local law imposing, repealing or re-imposing such supplemental tax

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

17 § 1451-c. Payment of tax. 1. The real estate transfer tax imposed  
18 pursuant to this article shall be paid to the treasurer or the recording  
19 officer acting as the agent of the treasurer upon designation as such  
20 agent by the treasurer. Such tax shall be paid at the same time as the  
21 real estate transfer tax imposed by article thirty-one of this chapter  
22 is required to be paid. Such treasurer or recording officer shall  
23 endorse upon each deed or instrument effecting a conveyance a receipt  
24 for the amount of the tax so paid.

25 2. A return shall be required to be filed with such treasurer or  
26 recording officer for purposes of the real estate transfer tax imposed  
27 pursuant to this article at the same time as a return is required to be  
28 filed for purposes of the real estate transfer tax imposed by article  
29 thirty-one of this chapter. The treasurer shall prescribe the form of  
30 return, the information which it shall contain, and the documentation  
31 that shall accompany the return. Said form shall be identical to the  
32 real estate transfer tax return required to be filed pursuant to section  
33 fourteen hundred nine of this chapter, except that the treasurer shall  
34 adapt said form to reflect the provisions in this chapter that are  
35 inconsistent, different, or in addition to the provisions of article  
36 thirty-one of this chapter. The real estate transfer tax returns  
37 required to be filed pursuant to this section shall be preserved for  
38 three years and thereafter until such treasurer or recording officer  
39 orders them to be destroyed.

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

44 § 1451-d. Liability for tax. 1. The real estate transfer tax shall be  
45 paid by the grantee. If the grantee has failed to pay the tax imposed  
46 pursuant to this article or if the grantee is exempt from such tax, the  
47 grantor shall have the duty to pay the tax. Where the grantor has the  
48 duty to pay the tax because the grantee has failed to pay the tax, such  
49 tax shall be the joint and several liability of the grantee and the  
50 grantor.

51 2. For the purpose of the proper administration of this article and to  
52 prevent evasion of the tax hereby imposed, it shall be presumed that all  
53 conveyances are subject to the tax. Where the consideration includes  
54 property other than money, it shall be presumed that the consideration  
55 is the fair market value of the real property or interest therein. These  
56 presumptions shall prevail until the contrary is proven, and the burden

1 of proving the contrary shall be on the person liable for payment of the  
2 tax.

3 § 1451-e. Exemptions. 1. The following shall be exempt from the  
4 payment of the real estate transfer tax imposed by this article:

5 (a) The state of New York, or any of its agencies, instrumentalities,  
6 political subdivisions, or public corporations (including a public  
7 corporation created pursuant to an agreement or compact with another  
8 state or the Dominion of Canada); and

9 (b) The United Nations, the United States of America or any of its  
10 agencies or instrumentalities.

11 2. The tax shall not apply to any of the following conveyances:

12 (a) Conveyances to the United Nations, the United States of America,  
13 the state of New York, or any of their instrumentalities, agencies or  
14 political subdivisions (or any public corporation, including a public  
15 corporation created pursuant to agreement or compact with another state  
16 or the Dominion of Canada);

17 (b) Conveyances which are or were used to secure a debt or other obli-  
18 gation;

19 (c) Conveyances which, without additional consideration, confirm,  
20 correct, modify or supplement a deed previously recorded;

21 (d) Conveyances of real property without consideration and otherwise  
22 than in connection with a sale, including deeds conveying realty as bona  
23 fide gifts;

24 (e) Conveyances given in connection with a tax sale;

25 (f) Conveyances to effectuate a mere change of identity or form of  
26 ownership or organization where there is no change in beneficial owner-  
27 ship, other than conveyances to a cooperative housing corporation of the  
28 real property comprising the cooperative dwelling or dwellings;

29 (g) Conveyances which consist of a deed of partition;

30 (h) Conveyances given pursuant to the federal bankruptcy act;

31 (i) Conveyances of real property which consist of the execution of a  
32 contract to sell real property without the use or occupancy of such  
33 property or the granting of an option to purchase real property without  
34 the use or occupancy of such property;

35 (j) Conveyances of real property or a portion or portions of real  
36 property that are the subject of one or more of the following develop-  
37 ment restrictions:

38 (1) agricultural, conservation, scenic, or an open space easement;

39 (2) covenants or restrictions prohibiting development where the prop-  
40 erty or portion of property being conveyed has had its development  
41 rights permanently removed;

42 (3) a purchase of development rights agreement where the property or  
43 portion of property being conveyed has had its development rights perma-  
44 nently removed;

45 (4) a transfer of development rights agreement, where the property  
46 being conveyed has had its development rights removed;

47 (5) real property subject to any locally adopted land preservation  
48 agreement, provided said exemption is included in the local law imposing  
49 the tax authorized by this article;

50 (k) Conveyances of real property, where the property is viable agri-  
51 cultural land as defined in subdivision seven of section three hundred  
52 one of the agriculture and markets law and the entire property to be  
53 conveyed is to be made subject to one of the development restrictions  
54 provided for in subparagraph two of paragraph (j) of this subdivision  
55 provided that said development restriction precludes the conversion of  
56 the property to a non-agricultural use for at least eight years from the

1 date of transfer, and said development restriction is evidenced by an  
2 easement, agreement, or other suitable instrument which is to be  
3 conveyed to the town simultaneously with the conveyance of the real  
4 property; or

5 (1) Conveyances of real property for open space, parks, or historic  
6 preservation purposes to any not-for-profit tax exempt corporation oper-  
7 ated for conservation, environmental, or historic preservation purposes.

8 3. An exemption from the tax which is equal to the median sales price  
9 of residential real property within the applicable county, as determined  
10 by the office of real property services pursuant to section four hundred  
11 twenty-five of the real property tax law, shall be allowed on the  
12 consideration of the conveyance of improved or unimproved real property  
13 or an interest therein.

14 § 1451-f. Credit. A grantee shall be allowed a credit against the tax  
15 due on a conveyance of real property to the extent tax was paid by such  
16 grantee on a prior creation of a leasehold of all or a portion of the  
17 same real property or on the granting of an option or contract to  
18 purchase all or a portion of the same real property by such grantee.  
19 Such credit shall be computed by multiplying the tax paid on the  
20 creation of the leasehold or on the granting of the option or contract  
21 by a fraction, the numerator of which is the value of the consideration  
22 used to compute such tax paid which is not yet due to such grantor on  
23 the date of the subsequent conveyance (and which such grantor will not  
24 be entitled to receive after such date), and the denominator of which is  
25 the total value of the consideration used to compute such tax paid.

26 § 1451-g. Cooperative housing corporation transfers. 1. Notwithstand-  
27 ing the definition of "controlling interest" contained in subdivision  
28 two of section fourteen hundred fifty-one-a of this article or anything  
29 to the contrary contained in subdivision five of section fourteen  
30 hundred fifty-one-a of this article, the tax imposed pursuant to this  
31 article shall apply to (a) the original conveyance of shares of stock in  
32 a cooperative housing corporation in connection with the grant or trans-  
33 fer of a proprietary leasehold by the cooperative corporation or cooper-  
34 ative plan sponsor, and (b) the subsequent conveyance of such stock in a  
35 cooperative housing corporation in connection with the grant or transfer  
36 of a proprietary leasehold by the owner thereof. With respect to any  
37 such subsequent conveyance where the property is an individual residen-  
38 tial unit, the consideration for the interest conveyed shall exclude the  
39 value of any liens on certificates of stock or other evidences of an  
40 ownership interest in and a proprietary lease from a corporation or  
41 partnership formed for the purpose of cooperative ownership of residen-  
42 tial interest in real estate remaining thereon at the time of convey-  
43 ance. In determining the tax on a conveyance described in paragraph (a)  
44 of this subdivision, a credit shall be allowed for a proportionate part  
45 of the amount of any tax paid upon the conveyance to the cooperative  
46 housing corporation of the real property comprising the cooperative  
47 dwelling or dwellings to the extent that such conveyance effectuated a  
48 mere change of identity or form of ownership of such property and not a  
49 change in the beneficial ownership of such property. The amount of the  
50 credit shall be determined by multiplying the amount of tax paid upon  
51 the conveyance to the cooperative housing corporation by a percentage  
52 representing the extent to which such conveyance effectuated a mere  
53 change of identity or form of ownership and not a change in the benefi-  
54 cial ownership of such property, and then multiplying the resulting  
55 product by a fraction, the numerator of which shall be the number of  
56 shares of stock conveyed in a transaction described in paragraph (a) of

1 this subdivision, and the denominator of which shall be the total number  
2 of shares of stock of the cooperative housing corporation (including any  
3 stock held by the corporation). In no event, however, shall such credit  
4 reduce the tax, on a conveyance described in paragraph (a) of this  
5 subdivision, below zero, nor shall any such credit be allowed for a tax  
6 paid more than twenty-four months prior to the date on which occurs the  
7 first in a series of conveyances of shares of stock in an offering of  
8 cooperative housing corporation shares described in paragraph (a) of  
9 this subdivision.

10 2. Every cooperative housing corporation shall be required to file an  
11 information return with the treasurer by July fifteenth of each year  
12 covering the preceding period of January first through June thirtieth  
13 and by January fifteenth of each year covering the preceding period of  
14 July first through December thirty-first. The return shall contain such  
15 information regarding the conveyance of shares of stock in the cooper-  
16 ative housing corporation as the treasurer may deem necessary, includ-  
17 ing, but not limited to, the names, addresses and employee identifica-  
18 tion numbers or social security numbers of the grantor and the grantee,  
19 the number of shares conveyed, the date of the conveyance and the  
20 consideration paid for such conveyance.

21 § 1451-h. Designation of agents. The treasurer is authorized to desig-  
22 nate the recording officer to act as such treasurer's agent for purposes  
23 of collecting the tax authorized by this article. The treasurer shall  
24 provide for the manner in which such person may be designated as such  
25 treasurer's agent subject to such terms and conditions as the treasurer  
26 shall prescribe. The real estate transfer tax shall be paid to such  
27 agent as provided in section fourteen hundred fifty-one-c of this arti-  
28 cle.

29 § 1451-i. Liability of recording officer. A recording officer shall  
30 not be liable for any inaccuracy in the amount of tax imposed pursuant  
31 to this article that such officer shall collect so long as such officer  
32 shall compute and collect such tax on the amount of consideration or the  
33 value of the interest conveyed as such amounts are provided to such  
34 officer by the person paying the tax.

35 § 1451-j. Refunds. Whenever the treasurer shall determine that any  
36 moneys received under the provisions of the local law enacted pursuant  
37 to this article were paid in error, such treasurer may cause such moneys  
38 to be refunded pursuant to such requirements as such treasurer may  
39 prescribe, provided that any application for such refund is filed with  
40 the treasurer within two years from the date the erroneous payment was  
41 made.

42 § 1451-k. Deposit and disposition of revenue. 1. All taxes, penalties  
43 and interest imposed by the town under the authority of section fourteen  
44 hundred fifty-one-b of this article, which are collected by the treasur-  
45 er or such treasurer's agents, shall be deposited in a single trust fund  
46 for the town and shall be kept in trust and separate and apart from all  
47 other monies in possession of the treasurer. Moneys in such fund shall  
48 be deposited and secured in the manner provided by section ten of the  
49 general municipal law. Pending expenditure from such fund, moneys there-  
50 in may be invested in the manner provided in section eleven of the  
51 general municipal law. Any interest earned or capital gain realized on  
52 the moneys so deposited or invested shall accrue to and become part of  
53 such fund.

54 2. The treasurer shall retain such amount as such treasurer may deter-  
55 mine to be necessary for refunds with respect to the tax imposed by the  
56 town, under the authority of section fourteen hundred fifty-one-b of

1 this article, out of which the treasurer shall pay any refunds of such  
2 taxes to those taxpayers entitled to a refund pursuant to the provisions  
3 of this article.

4 3. The treasurer, after reserving such refunds, shall on or before the  
5 twelfth day of each month pay to the town supervisor the taxes, penal-  
6 ties and interest imposed by the town under the authority of section  
7 fourteen hundred fifty-one-b of this article, collected by the treasur-  
8 er, pursuant to this article during the next preceding calendar month.  
9 The amount so payable shall be certified to the town supervisor by the  
10 treasurer, who shall not be held liable for any inaccuracy in such  
11 certification. Provided, however, any such certification may be based on  
12 such information as may be available to the treasurer at the time such  
13 certification must be made under this section. Where the amount so paid  
14 over to the town in any such distribution is more or less than the  
15 amount due to the town, the amount of the overpayment or underpayment  
16 shall be certified to the town supervisor by the treasurer, who shall  
17 not be held liable for any inaccuracy in such certification. The amount  
18 of the overpayment or underpayment shall be so certified to the town  
19 supervisor as soon after the discovery of the overpayment or underpay-  
20 ment as reasonably possible and subsequent payments and distributions by  
21 the treasurer to the town shall be adjusted by subtracting the amount of  
22 any such overpayment from or by adding the amount of any such underpay-  
23 ment to such number of subsequent payments and distributions as the  
24 treasurer and town supervisor shall consider reasonable in view of the  
25 overpayment or underpayment and all other facts and circumstances.

26 4. All monies received from the treasurer shall be deposited in the  
27 fund of the town, pursuant to section sixty-four-m of the town law.

28 § 1451-1. Judicial review. 1. Any final determination of the amount of  
29 any tax payable under section fourteen hundred fifty-one-c of this arti-  
30 cle shall be reviewable for error, illegality or unconstitutionality or  
31 any other reason whatsoever by a proceeding under article seventy-eight  
32 of the civil practice law and rules if application therefor is made to  
33 the supreme court within four months after the giving of the notice of  
34 such final determination, provided, however, that any such proceeding  
35 under article seventy-eight of the civil practice law and rules shall  
36 not be instituted unless (a) the amount of any tax sought to be  
37 reviewed, with such interest and penalties thereon as may be provided  
38 for by local law shall be first deposited and there is filed an under-  
39 taking, issued by a surety company authorized to transact business in  
40 this state and approved by the state superintendent of financial  
41 services as to solvency and responsibility, in such amount as a justice  
42 of the supreme court shall approve to the effect that if such proceeding  
43 be dismissed or the tax confirmed the petitioner will pay all costs and  
44 charges which may accrue in the prosecution of such proceeding or (b) at  
45 the option of the petitioner, such undertaking may be in a sum suffi-  
46 cient to cover the taxes, interest and penalties stated in such determi-  
47 nation, plus the costs and charges which may accrue against it in the  
48 prosecution of the proceeding, in which event the petitioner shall not  
49 be required to pay such taxes, interest or penalties as a condition  
50 precedent to the application.

51 2. Where any tax imposed hereunder shall have been erroneously, ille-  
52 gally or unconstitutionally assessed or collected and application for  
53 the refund or revision thereof duly made to the proper fiscal officer or  
54 officers, and such officer or officers shall have made a determination  
55 denying such refund or revision, such determination shall be reviewable  
56 by a proceeding under article seventy-eight of the civil practice law

1 and rules; provided, however, that (a) such proceeding is instituted  
2 within four months after the giving of the notice of such denial, (b) a  
3 final determination of tax due was not previously made, and (c) an  
4 undertaking is filed with the proper fiscal officer or officers in such  
5 amount and with such sureties as a justice of the supreme court shall  
6 approve to the effect that if such proceeding be dismissed or the tax  
7 confirmed, the petitioner will pay all costs and charges which may  
8 accrue in the prosecution of such proceeding.

9 § 1451-m. Apportionment. A local law adopted by the town of Rochester,  
10 pursuant to this article, shall provide for a method of apportionment  
11 for determining the amount of tax due whenever the real property or  
12 interest therein is situated within and without the town.

13 § 1451-n. Miscellaneous. A local law adopted by the town of Rochester,  
14 pursuant to this article, may contain such other provisions as the town  
15 deems necessary for the proper administration of the tax imposed pursu-  
16 ant to this article, including provisions concerning the determination  
17 of tax, the imposition of interest on underpayments and overpayments and  
18 the imposition of civil penalties. Such provisions shall be identical to  
19 the corresponding provisions of the real estate transfer tax imposed by  
20 article thirty-one of this chapter, so far as such provisions can be  
21 made applicable to the tax imposed pursuant to this article.

22 § 1451-o. Returns to be secret. 1. Except in accordance with proper  
23 judicial order or as otherwise provided by law, it shall be unlawful for  
24 the treasurer or any officer or employee of the county or town, includ-  
25 ing any person engaged or retained on an independent contract basis, to  
26 divulge or make known in any manner the particulars set forth or  
27 disclosed in any return required under a local law enacted pursuant to  
28 this article. However, that nothing in this section shall prohibit the  
29 recording officer from making a notation on an instrument effecting a  
30 conveyance indicating the amount of tax paid. No recorded instrument  
31 effecting a conveyance shall be considered a return for purposes of this  
32 section.

33 2. The officers charged with the custody of such returns shall not be  
34 required to produce any of them or evidence of anything contained in  
35 them in any action or proceeding in any court, except on behalf of the  
36 county or town in any action or proceeding involving the collection of a  
37 tax due under a local law enacted pursuant to this article to which such  
38 county or town is a party, or a claimant, or on behalf of any party to  
39 any action or proceeding under the provisions of a local law enacted  
40 pursuant to this article when the returns or facts shown thereby are  
41 directly involved in such action or proceeding, in any of which events  
42 the court may require the production of, and may admit in evidence, so  
43 much of said returns or of the facts shown thereby, as are pertinent to  
44 the action or proceeding and no more.

45 3. Nothing herein shall be construed to prohibit the delivery to a  
46 grantor or grantee of an instrument effecting a conveyance or the duly  
47 authorized representative of a grantor or grantee of a certified copy of  
48 any return filed in connection with such instrument or to prohibit the  
49 publication of statistics so classified as to prevent the identification  
50 of particular returns and the items thereof, or the inspection by the  
51 legal representatives of such county or town of the return of any  
52 taxpayer who shall bring action to set aside or review the tax based  
53 thereon.

54 4. Any officer or employee of such county or town who willfully  
55 violates the provisions of this section shall be dismissed from office

1 and be incapable of holding any public office in this state for a period  
2 of five years thereafter.

3 § 1451-p. Foreclosure proceedings. Where the conveyance consists of a  
4 transfer of property made as a result of an order of the court in a  
5 foreclosure proceeding ordering the sale of such property, the referee  
6 or sheriff effectuating such transfer shall not be liable for any inter-  
7 est or penalties that are authorized pursuant to this article or article  
8 thirty-seven of this chapter.

9 § 4. This act shall take effect immediately.