

# STATE OF NEW YORK

6664

2025-2026 Regular Sessions

## IN SENATE

March 19, 2025

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

AN ACT to amend the town law, in relation to authorizing the town of Copake to establish community preservation funds; to amend the tax law, in relation to authorizing the town of Copake to impose a real estate transfer tax with revenues therefrom to be deposited in said community preservation fund; and providing for the repeal of certain provisions of the tax law upon expiration thereof

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

1 Section 1. The town law is amended by adding a new section 64-1 to  
2 read as follows:

3 § 64-1. Town of Copake preservation funds. 1. As used in this section,  
4 the following words and terms shall have the following meanings:

5 (a) "Town" means the town of Copake.

6 (b) "Community preservation" shall mean and include any of the  
7 purposes outlined in subdivision five of this section.

8 (c) "Board" means the advisory board required pursuant to subdivision  
9 six of this section.

10 (d) "Fund" means the community preservation fund created pursuant to  
11 subdivision two of this section.

12 (e) "Tax" shall mean the real estate transfer tax imposed pursuant to  
13 section fourteen hundred fifty-b of the tax law or, if the context  
14 clearly indicates, shall mean the real estate transfer tax imposed  
15 pursuant to article thirty-one of the tax law.

16 2. The town board of the town of Copake is authorized to establish by  
17 local law a community preservation fund pursuant to the provisions of  
18 this section. Deposits into the fund may include revenues of the local  
19 government from whatever source and shall include, at a minimum, all  
20 revenues from a tax imposed upon the transfer of real property interests  
21 in such town pursuant to article thirty-one-J of the tax law. The fund

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

LBD11004-01-5

1 shall also be authorized to accept gifts of any such interests in land  
2 or of funds. Interest accrued by monies deposited into the fund shall be  
3 credited to the fund. In no event shall monies deposited in the fund be  
4 transferred to any other account. Nothing contained in this section  
5 shall be construed to prevent the financing in whole or in part, pursu-  
6 ant to the local finance law, of any acquisition authorized pursuant to  
7 this section. Monies from the fund may be utilized to repay any indebt-  
8 edness or obligations incurred pursuant to the local finance law  
9 consistent with effectuating the purposes of this section.

10 3. The purposes of the fund shall be exclusively: (a) to implement a  
11 plan for the preservation of community character as required by this  
12 section, (b) to acquire interests or rights in real property for the  
13 preservation of community character within the town including villages  
14 therein in accordance with such plan and in cooperation with willing  
15 sellers, (c) to establish a bank pursuant to a transfer of development  
16 rights program consistent with section two hundred sixty-one-a of this  
17 chapter, and (d) to provide a management and stewardship program for  
18 such interests and rights consistent with subdivision ten of this  
19 section and in accordance with such plan designed to preserve community  
20 character. Not more than ten percent of the fund shall be utilized for  
21 the management and stewardship program.

22 4. If the implementation of the community preservation project plan,  
23 adopted by the town board, as provided in subdivision seven of this  
24 section, has been completed, and funds are no longer needed for the  
25 purposes outlined in this subdivision, then any remaining monies in the  
26 fund shall be applied to reduce any bonded indebtedness or obligations  
27 incurred to effectuate the purposes of this section.

28 5. Preservation of community character shall involve one or more of  
29 the following:

- 30 (a) preservation of open space;
- 31 (b) establishment of parks, nature preserves, or recreation areas;
- 32 (c) preservation of land which is predominantly viable agricultural  
33 land, as defined in subdivision seven of section three hundred one of  
34 the agriculture and markets law, or unique and irreplaceable agricul-  
35 tural land, as defined in subdivision six of section three hundred one  
36 of the agriculture and markets law;
- 37 (d) preservation of lands of exceptional scenic value;
- 38 (e) preservation of freshwater marshes or other wetlands;
- 39 (f) preservation of aquifer recharge areas;
- 40 (g) preservation of undeveloped beach-lands or shoreline;
- 41 (h) establishment of wildlife refuges for the purpose of maintaining  
42 native animal species diversity, including the protection of habitat  
43 essential to the recovery of rare, threatened or endangered species;
- 44 (i) preservation of unique or threatened ecological areas;
- 45 (j) preservation of rivers and river areas in a natural, free-flowing  
46 condition;
- 47 (k) preservation of forested land;
- 48 (l) preservation of public access to lands for public use including  
49 stream rights and waterways;
- 50 (m) preservation of historic places and properties listed on the New  
51 York state register of historic places and/or protected under a munici-  
52 pal historic preservation ordinance or law; and
- 53 (n) undertaking any of the purposes of this subdivision in furtherance  
54 of the establishment of a greenbelt.

55 6. The town board which has established a community preservation fund  
56 shall create an advisory board to review and make recommendations on

1 proposed acquisitions of interests in real property using monies from  
2 the fund. Such board shall consist of five or seven legal residents of  
3 the municipality who shall serve without compensation. No member of the  
4 local legislative body shall serve on the board. A majority of the  
5 members of the board shall have demonstrated experience with conserva-  
6 tion or land preservation activities. The board shall act in an advisory  
7 capacity to the town board. At least one member of the board shall be an  
8 active farmer. Board members' terms shall be staggered.

9 7. The town board which has established a community preservation fund  
10 shall, by local law, adopt a community preservation project plan. Such  
11 plan shall list every project which the town plans to undertake pursuant  
12 to the community preservation fund. It shall include every parcel which  
13 is necessary to be acquired in the town in order to protect community  
14 character. Such plan shall provide for a detailed evaluation of all  
15 available land use alternatives to protect community character, includ-  
16 ing but not limited to: (a) fee simple acquisition, (b) zoning regu-  
17 lations, including density reductions, cluster development, and site  
18 plan and design requirements, (c) transfer of development rights, (d)  
19 the purchase of development rights, and (e) scenic and conservation  
20 easements. Said evaluation shall be as specific as practicable as to  
21 each parcel selected for inclusion in such plan. Such plan shall estab-  
22 lish the priorities for preservation, and shall include the preservation  
23 of farmland as its highest priority. Funds from the community preserva-  
24 tion fund may only be expended for projects which have been included in  
25 such plan. Such plan shall be updated not less than once every five  
26 years, but in no event until at least three years after the adoption of  
27 the original plan. A copy of such plan shall be filed with the town  
28 clerk, the commissioner of environmental conservation, the commissioner  
29 of agriculture and markets and the commissioner of the office of parks,  
30 recreation and historic preservation. Such plan shall be completed at  
31 least sixty days before the submission of the mandatory referendum  
32 required by section fourteen hundred fifty-b of the tax law. If at the  
33 time of referendum, the town shall have in place an adopted open space  
34 plan, such plan shall be deemed sufficient to waive the preservation  
35 plan requirements of this subdivision. Any monies expended from the  
36 community preservation plan shall, however be consistent with the  
37 purposes outlined in subdivisions three and five of this section and  
38 with the open space plan for a period not to exceed twelve months.

39 8. The town board which has established a community preservation fund  
40 pursuant to this section may study and consider establishing a transfer  
41 of development rights program to protect community character as provided  
42 for by section two hundred sixty-one-a of this chapter. All provisions  
43 of such section two hundred sixty-one-a shall be complied with. If at  
44 any time during the life of the community preservation fund a transfer  
45 of development rights program is established, the town may utilize  
46 monies from the community preservation fund in order to create and fund  
47 a central bank of the transfer of development rights program. If at any  
48 time during the life of the community preservation fund, a transfer of  
49 development rights program is repealed by the town, all monies from the  
50 central bank shall be returned to the community preservation fund.

51 9. No interests or rights in real property shall be acquired pursuant  
52 to this section until a public hearing is held as required by section  
53 two hundred forty-seven of the general municipal law; provided, however,  
54 that nothing herein shall prevent the town board from entering into a  
55 conditional purchase agreement before a public hearing is held. Any  
56 resolution of the town board approving an acquisition of rights or

1 interest in real property pursuant to this section, shall find that  
2 acquisition was the best alternative for the protection of community  
3 character of all the reasonable alternatives available to the town.

4 10. Rights or interest in real property acquired pursuant to this  
5 section shall be administered and managed in a manner which (a) allows  
6 public use and enjoyment in a manner compatible with the natural,  
7 scenic, historic and open space character of such lands; (b) preserves  
8 the native biological diversity of such lands; (c) with regard to open  
9 spaces, limits improvements to enhancing access for passive use of such  
10 lands such as nature trails, boardwalks, bicycle paths, and peripheral  
11 parking areas provided that such improvements do not degrade the ecolog-  
12 ical value of the land or threaten essential wildlife habitat; and (d)  
13 preserves cultural property consistent with accepted standards for  
14 historic preservation. Notwithstanding any other provision of this  
15 subdivision there shall be no right to public use and enjoyment of land  
16 used in conjunction with a farm operation as defined by subdivision  
17 eleven of section three hundred one of the agriculture and markets law.  
18 In furthering the purposes of this section, the town may enter into  
19 agreements with corporations organized under the not-for-profit corpo-  
20 ration law and engage in land trust activities to manage lands including  
21 less than fee interests acquired pursuant to the provisions of this  
22 section, provided that any such agreement shall contain a provision that  
23 such corporation shall keep the lands accessible to the public unless  
24 such corporation shall demonstrate to the satisfaction of the town that  
25 public accessibility would be detrimental to the lands or any natural  
26 resources associated therewith.

27 11. Rights or interests in real property acquired with monies from  
28 such fund shall not be sold, leased, exchanged, donated, or otherwise  
29 disposed of or used for other than the purposes permitted by this  
30 section without the express authority of an act of the state legisla-  
31 ture, which shall provide for the substitution of other lands of equal  
32 environmental value and fair market value and reasonably equivalent  
33 usefulness and location to those to be discontinued, sold or disposed  
34 of, and such other requirements as shall be approved by the state legis-  
35 lature. Any conservation easements, created under title three of article  
36 forty-nine of the environmental conservation law, which are acquired  
37 with monies from such fund may only be modified or extinguished as  
38 provided in section 49-0307 of such law. Nothing in this section shall  
39 preclude the town, by local law, from establishing additional  
40 restrictions to the alienation of lands acquired pursuant to this  
41 section. This subdivision shall not apply to the sale of development  
42 rights by the town acquired pursuant to this section, where said sale is  
43 made by a central bank created by the town, pursuant to a transfer of  
44 development rights program established by the town pursuant to section  
45 two hundred sixty-one-a of this chapter, provided, however (a) that the  
46 lands from which said development rights were acquired shall remain  
47 preserved in perpetuity by a permanent conservation easement or other  
48 instrument that similarly preserves the community character referenced  
49 in subdivision five of this section, and (b) the proceeds from such sale  
50 shall be deposited in the community preservation fund.

51 § 2. The tax law is amended by adding a new article 31-J to read as  
52 follows:

53 ARTICLE 31-J  
54 TAX ON REAL ESTATE TRANSFERS  
55 IN THE TOWN OF COPAKE

56 Section 1450-a. Definitions.

1 1450-b. Imposition of tax.

2 1450-c. Payment of tax.

3 1450-d. Liability for tax.

4 1450-e. Exemptions.

5 1450-f. Credit.

6 1450-g. Cooperative housing corporation transfers.

7 1450-h. Designation of agents.

8 1450-i. Liability of recording officer.

9 1450-j. Refunds.

10 1450-k. Deposit and disposition of revenue.

11 1450-l. Judicial review.

12 1450-m. Apportionment.

13 1450-n. Miscellaneous.

14 1450-o. Returns to be secret.

15 § 1450-a. Definitions. When used in this article, unless otherwise  
16 expressly stated, the following words and terms shall have the following  
17 meanings:

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

24 2. "Controlling interest" means (a) in the case of a corporation,  
25 either fifty percent or more of the total combined voting power of all  
26 classes of stock of such corporation, or fifty percent or more of the  
27 capital, profits or beneficial interest in such voting stock of such  
28 corporation, and (b) in the case of a partnership, association, trust or  
29 other entity, fifty percent or more of the capital, profits or benefi-  
30 cial interest in such partnership, association, trust or other entity.

31 3. "Real property" means every estate or right, legal or equitable,  
32 present or future, vested or contingent, in lands, tenements or heredi-  
33 taments, including buildings, structures and other improvements thereon,  
34 which are located in whole or in part within the town of Copake. It  
35 shall not include rights to sepulture.

36 4. "Consideration" means the price actually paid or required to be  
37 paid for the real property or interest therein, including payment for an  
38 option or contract to purchase real property, whether or not expressed  
39 in the deed and whether paid or required to be paid by money, property,  
40 or any other thing of value. It shall include the cancellation or  
41 discharge of an indebtedness or obligation. It shall also include the  
42 amount of any mortgage, purchase money mortgage, lien or other encum-  
43 brance, whether or not the underlying indebtedness is assumed or taken  
44 subject to.

45 (a) In the case of a creation of a leasehold interest or the granting  
46 of an option with use and occupancy of real property, consideration  
47 shall include, but not be limited to, the value of the rental and other  
48 payments attributable to the use and occupancy of the real property or  
49 interest therein, the value of any amount paid for an option to purchase  
50 or renew and the value of rental or other payments attributable to the  
51 exercise of any option to renew.

52 (b) In the case of a creation of a subleasehold interest, consider-  
53 ation shall include, but not be limited to, the value of the sublease  
54 rental payments attributable to the use and occupancy of the real prop-  
55 erty, the value of any amount paid for an option to renew and the value  
56 of rental or other payments attributable to the exercise of any option

1 to renew less the value of the remaining prime lease rental payments  
2 required to be made.

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

7 (d) In the case of an assignment or surrender of a leasehold interest  
8 or the assignment or surrender of an option or contract to purchase real  
9 property, consideration shall not include the value of the remaining  
10 rental payments required to be made pursuant to the terms of such lease  
11 or the amount to be paid for the real property pursuant to the terms of  
12 the option or contract being assigned or surrendered.

13 (e) In the case of (1) the original conveyance of shares of stock in a  
14 cooperative housing corporation in connection with the grant or transfer  
15 of a proprietary leasehold by the cooperative corporation or cooperative  
16 plan sponsor, and (2) the subsequent conveyance by the owner thereof of  
17 such stock in a cooperative housing corporation in connection with the  
18 grant or transfer of a proprietary leasehold for a cooperative unit  
19 other than an individual residential unit, consideration shall include a  
20 proportionate share of the unpaid principal of any mortgage on the real  
21 property of the cooperative housing corporation comprising the cooper-  
22 ative dwelling or dwellings. Such share shall be determined by multiply-  
23 ing the total unpaid principal of the mortgage by a fraction, the numer-  
24 ator of which shall be the number of shares of stock being conveyed in  
25 the cooperative housing corporation in connection with the grant or  
26 transfer of a proprietary leasehold and the denominator of which shall  
27 be the total number of shares of stock in the cooperative housing corpo-  
28 ration.

29 5. "Conveyance" means the transfer or transfers of any interest in  
30 real property by any method, including but not limited to, sale,  
31 exchange, assignment, surrender, mortgage foreclosure, transfer in lieu  
32 of foreclosure, option, trust indenture, taking by eminent domain,  
33 conveyance upon liquidation or by a receiver, or transfer or acquisition  
34 of a controlling interest in any entity with an interest in real proper-  
35 ty. Transfer of an interest in real property shall include the creation  
36 of a leasehold or sublease only where (a) the sum of the term of the  
37 lease or sublease and any options for renewal exceeds forty-nine years,  
38 (b) substantial capital improvements are or may be made by or for the  
39 benefit of the lessee or sublessee, and (c) the lease or sublease is for  
40 substantially all of the premises constituting the real property.  
41 Notwithstanding the foregoing, conveyance of real property shall not  
42 include a conveyance made pursuant to devise, bequest or inheritance;  
43 the creation, modification, extension, spreading, severance, consol-  
44 idation, assignment, transfer, release or satisfaction of a mortgage; a  
45 mortgage subordination agreement, a mortgage severance agreement, an  
46 instrument given to perfect or correct a recorded mortgage; or a release  
47 of lien of tax pursuant to this chapter or the internal revenue code.

48 6. "Interest in the real property" includes title in fee, a leasehold  
49 interest, a beneficial interest, an encumbrance, development rights, air  
50 space and air rights, or any other interest with the right to use or  
51 occupancy of real property or the right to receive rents, profits or  
52 other income derived from real property. It shall also include an option  
53 or contract to purchase real property. It shall not include a right of  
54 first refusal to purchase real property.

55 7. "Grantor" means the person making the conveyance of real property  
56 or interest therein. Where the conveyance consists of a transfer or an

1 acquisition of a controlling interest in an entity with an interest in  
2 real property, "grantor" means the entity with an interest in real prop-  
3 erty or a shareholder or partner transferring stock or partnership  
4 interest, respectively.

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

7 9. "Fund" means a community preservation fund created pursuant to  
8 section sixty-four-1 of the town law.

9 10. "Recording officer" means the county clerk of the county of Colum-  
10 bia.

11 11. "Town" means the town of Copake, county of Columbia.

12 12. "Treasurer" means the treasurer of the county of Columbia.

13 13. "Town supervisor" means the town supervisor of the town of Copake.

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

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

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

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

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

29 § 1450-b. Imposition of tax. Notwithstanding any other provisions of  
30 law to the contrary, the town of Copake, acting through its town board,  
31 is hereby authorized and empowered to adopt a local law imposing in such  
32 town a tax on each conveyance of real property or interest therein not  
33 to exceed a maximum of two percent of the consideration for such convey-  
34 ance, subject to the exemptions set forth in section fourteen hundred  
35 fifty-e of this article; any such local law shall fix the rate of such  
36 tax. Provided, however, any such local law imposing, repealing or reim-  
37 posing such tax shall be subject to a mandatory referendum pursuant to  
38 section twenty-three of the municipal home rule law. Notwithstanding the  
39 foregoing, prior to adoption of such local law, the town must establish  
40 a community preservation fund pursuant to section sixty-four-1 of the  
41 town law. Revenues from such tax shall be deposited in such fund and may  
42 be used solely for the purposes of such fund. Such local law shall apply  
43 to any conveyance occurring on or after the first day of a month to be  
44 designated by such town board, which is not less than sixty days after  
45 the enactment of such local law, but shall not apply to conveyances made  
46 on or after such date pursuant to binding written contracts entered into  
47 prior to such date, provided that the date of execution of such contract  
48 is confirmed by independent evidence such as the recording of the  
49 contract, payment of a deposit or other facts and circumstances as  
50 determined by the treasurer.

51 § 1450-c. Payment of tax. 1. The real estate transfer tax imposed  
52 pursuant to this article shall be paid to the treasurer or the recording  
53 officer acting as the agent of the treasurer upon designation as such  
54 agent by the treasurer. Such tax shall be paid at the same time as the  
55 real estate transfer tax imposed by article thirty-one of this chapter  
56 is required to be paid. Such treasurer or recording officer shall

1 endorse upon each deed or instrument effecting a conveyance a receipt  
2 for the amount of the tax so paid.

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

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

22 § 1450-d. Liability for tax. 1. The real estate transfer tax shall be  
23 paid by the grantee. If the grantee has failed to pay the tax imposed  
24 pursuant to this article or if the grantee is exempt from such tax, the  
25 grantor shall have the duty to pay the tax. Where the grantor has the  
26 duty to pay the tax because the grantee has failed to pay the tax, such  
27 tax shall be the joint and several liability of the grantee and the  
28 grantor.

29 2. For the purpose of the proper administration of this article and to  
30 prevent evasion of the tax hereby imposed, it shall be presumed that all  
31 conveyances are subject to the tax. Where the consideration includes  
32 property other than money, it shall be presumed that the consideration  
33 is the fair market value of the real property or interest therein. These  
34 presumptions shall prevail until the contrary is proven, and the burden  
35 of proving the contrary shall be on the person liable for payment of the  
36 tax.

37 § 1450-e. Exemptions. 1. The following shall be exempt from the  
38 payment of the real estate transfer tax imposed by this article:

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

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

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

46 (a) Conveyances to the United Nations, the United States of America,  
47 the state of New York, or any of their instrumentalities, agencies or  
48 political subdivisions (or any public corporation, including a public  
49 corporation created pursuant to agreement or compact with another state  
50 or the Dominion of Canada);

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

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

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

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

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

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

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

11 (i) Conveyances of real property which consist of the execution of a  
12 contract to sell real property without the use or occupancy of such  
13 property or the granting of an option to purchase real property without  
14 the use or occupancy of such property;

15 (j) Conveyances of real property or a portion or portions of real  
16 property that are the subject of one or more of the following develop-  
17 ment restrictions:

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

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

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

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

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

30 (k) Conveyances of real property, where the property is viable agri-  
31 cultural land as defined in subdivision seven of section three hundred  
32 one of the agriculture and markets law and the entire property to be  
33 conveyed is to be made subject to one of the development restrictions  
34 provided for in subparagraph two of paragraph (j) of this subdivision  
35 provided that said development restriction precludes the conversion of  
36 the property to a non-agricultural use for at least eight years from the  
37 date of transfer, and said development restriction is evidenced by an  
38 easement, agreement, or other suitable instrument which is to be  
39 conveyed to the town simultaneously with the conveyance of the real  
40 property; or

41 (l) Conveyances of real property for open space, parks, or historic  
42 preservation purposes to any not-for-profit tax exempt corporation oper-  
43 ated for conservation, environmental, or historic preservation purposes.

44 3. An exemption from the tax which is equal to the median sales price  
45 of residential real property within the applicable county, as determined  
46 by the office of real property services pursuant to section four hundred  
47 twenty-five of the real property tax law, shall be allowed on the  
48 consideration of the conveyance of improved or unimproved real property  
49 or an interest therein.

50 § 1450-f. Credit. A grantee shall be allowed a credit against the tax  
51 due on a conveyance of real property to the extent tax was paid by such  
52 grantee on a prior creation of a leasehold of all or a portion of the  
53 same real property or on the granting of an option or contract to  
54 purchase all or a portion of the same real property by such grantee.  
55 Such credit shall be computed by multiplying the tax paid on the  
56 creation of the leasehold or on the granting of the option or contract

1 by a fraction, the numerator of which is the value of the consideration  
2 used to compute such tax paid which is not yet due to such grantor on  
3 the date of the subsequent conveyance (and which such grantor will not  
4 be entitled to receive after such date), and the denominator of which is  
5 the total value of the consideration used to compute such tax paid.

6 § 1450-g. Cooperative housing corporation transfers. 1. Notwithstand-  
7 ing the definition of "controlling interest" contained in subdivision  
8 two of section fourteen hundred fifty-a of this article or anything to  
9 the contrary contained in subdivision five of section fourteen hundred  
10 fifty-a of this article, the tax imposed pursuant to this article shall  
11 apply to (a) the original conveyance of shares of stock in a cooperative  
12 housing corporation in connection with the grant or transfer of a  
13 proprietary leasehold by the cooperative corporation or cooperative plan  
14 sponsor, and (b) the subsequent conveyance of such stock in a cooper-  
15 ative housing corporation in connection with the grant or transfer of a  
16 proprietary leasehold by the owner thereof. With respect to any such  
17 subsequent conveyance where the property is an individual residential  
18 unit, the consideration for the interest conveyed shall exclude the  
19 value of any liens on certificates of stock or other evidences of an  
20 ownership interest in and a proprietary lease from a corporation or  
21 partnership formed for the purpose of cooperative ownership of residen-  
22 tial interest in real estate remaining thereon at the time of convey-  
23 ance. In determining the tax on a conveyance described in paragraph (a)  
24 of this subdivision, a credit shall be allowed for a proportionate part  
25 of the amount of any tax paid upon the conveyance to the cooperative  
26 housing corporation of the real property comprising the cooperative  
27 dwelling or dwellings to the extent that such conveyance effectuated a  
28 mere change of identity or form of ownership of such property and not a  
29 change in the beneficial ownership of such property. The amount of the  
30 credit shall be determined by multiplying the amount of tax paid upon  
31 the conveyance to the cooperative housing corporation by a percentage  
32 representing the extent to which such conveyance effectuated a mere  
33 change of identity or form of ownership and not a change in the benefi-  
34 cial ownership of such property, and then multiplying the resulting  
35 product by a fraction, the numerator of which shall be the number of  
36 shares of stock conveyed in a transaction described in paragraph (a) of  
37 this subdivision, and the denominator of which shall be the total number  
38 of shares of stock of the cooperative housing corporation (including any  
39 stock held by the corporation). In no event, however, shall such credit  
40 reduce the tax, on a conveyance described in paragraph (a) of this  
41 subdivision, below zero, nor shall any such credit be allowed for a tax  
42 paid more than twenty-four months prior to the date on which occurs the  
43 first in a series of conveyances of shares of stock in an offering of  
44 cooperative housing corporation shares described in paragraph (a) of  
45 this subdivision.

46 2. Every cooperative housing corporation shall be required to file an  
47 information return with the treasurer by July fifteenth of each year  
48 covering the preceding period of January first through June thirtieth  
49 and by January fifteenth of each year covering the preceding period of  
50 July first through December thirty-first. The return shall contain such  
51 information regarding the conveyance of shares of stock in the cooper-  
52 ative housing corporation as the treasurer may deem necessary, includ-  
53 ing, but not limited to, the names, addresses and employee identifica-  
54 tion numbers or social security numbers of the grantor and the grantee,  
55 the number of shares conveyed, the date of the conveyance and the  
56 consideration paid for such conveyance.

1 § 1450-h. Designation of agents. The treasurer is authorized to designate the recording officer to act as their agent for purposes of collecting the tax authorized by this article. The treasurer shall provide for the manner in which such person may be designated as their agent subject to such terms and conditions as the treasurer shall prescribe. The real estate transfer tax shall be paid to such agent as provided in section fourteen hundred fifty-c of this article.

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8 § 1450-i. Liability of recording officer. A recording officer shall not be liable for any inaccuracy in the amount of tax imposed pursuant to this article that they shall collect so long as they shall compute and collect such tax on the amount of consideration or the value of the interest conveyed as such amounts are provided to them by the person paying the tax.

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14 § 1450-j. Refunds. Whenever the treasurer shall determine that any moneys received under the provisions of the local law enacted pursuant to this article were paid in error, they may cause such moneys to be refunded pursuant to such requirements as they may prescribe, provided that any application for such refund is filed with the treasurer within two years from the date the erroneous payment was made.

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20 § 1450-k. Deposit and disposition of revenue. 1. All taxes, penalties and interest imposed by the town under the authority of section fourteen hundred fifty-b of this article, which are collected by the treasurer or their agents, shall be deposited in a single trust fund for the town and shall be kept in trust and separate and apart from all other monies in possession of the treasurer. Moneys in such fund shall be deposited and secured in the manner provided by section ten of the general municipal law. Pending expenditure from such fund, moneys therein may be invested in the manner provided in section eleven of the general municipal law. Any interest earned or capital gain realized on the moneys so deposited or invested shall accrue to and become part of such fund.

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31 2. The treasurer shall retain such amount as they may determine to be necessary for refunds with respect to the tax imposed by the town, under the authority of section fourteen hundred fifty-b of this article, out of which the treasurer shall pay any refunds of such taxes to those taxpayers entitled to a refund pursuant to the provisions of this article.

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37 3. The treasurer, after reserving such refunds, shall on or before the twelfth day of each month pay to the town supervisor the taxes, penalties and interest imposed by the town under the authority of section fourteen hundred fifty-b of this article, collected by the treasurer, pursuant to this article during the next preceding calendar month. The amount so payable shall be certified to the town supervisor by the treasurer, who shall not be held liable for any inaccuracy in such certification. Provided, however, any such certification may be based on such information as may be available to the treasurer at the time such certification must be made under this section. Where the amount so paid over to the town in any such distribution is more or less than the amount due to the town, the amount of the overpayment or underpayment shall be certified to the town supervisor by the treasurer, who shall not be held liable for any inaccuracy in such certification. The amount of the overpayment or underpayment shall be so certified to the town supervisor as soon after the discovery of the overpayment or underpayment as reasonably possible and subsequent payments and distributions by the treasurer to the town shall be adjusted by subtracting the amount of any such overpayment from or by adding the amount of any such underpayment to such number of subsequent payments and distributions as the

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1 treasurer and town supervisor shall consider reasonable in view of the  
2 overpayment or underpayment and all other facts and circumstances.

3 4. All monies received from the treasurer shall be deposited in the  
4 fund of the town, pursuant to section sixty-four-1 of the town law.

5 § 1450-l. Judicial review. 1. Any final determination of the amount of  
6 any tax payable under section fourteen hundred fifty-c of this article  
7 shall be reviewable for error, illegality or unconstitutionality or any  
8 other reason whatsoever by a proceeding under article seventy-eight of  
9 the civil practice law and rules if application therefor is made to the  
10 supreme court within four months after the giving of the notice of such  
11 final determination, provided, however, that any such proceeding under  
12 article seventy-eight of the civil practice law and rules shall not be  
13 instituted unless (a) the amount of any tax sought to be reviewed, with  
14 such interest and penalties thereon as may be provided for by local law  
15 shall be first deposited and there is filed an undertaking, issued by a  
16 surety company authorized to transact business in this state and  
17 approved by the state superintendent of insurance as to solvency and  
18 responsibility, in such amount as a justice of the supreme court shall  
19 approve to the effect that if such proceeding be dismissed or the tax  
20 confirmed the petitioner will pay all costs and charges which may accrue  
21 in the prosecution of such proceeding or (b) at the option of the peti-  
22 tioner, such undertaking may be in a sum sufficient to cover the taxes,  
23 interest and penalties stated in such determination, plus the costs and  
24 charges which may accrue against it in the prosecution of the proceed-  
25 ing, in which event the petitioner shall not be required to pay such  
26 taxes, interest or penalties as a condition precedent to the applica-  
27 tion.

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

42 § 1450-m. Apportionment. A local law adopted by the town of Copake,  
43 pursuant to this article, shall provide for a method of apportionment  
44 for determining the amount of tax due whenever the real property or  
45 interest therein is situated within and without the town.

46 § 1450-n. Miscellaneous. A local law adopted by the town of Copake,  
47 pursuant to this article, may contain such other provisions as the town  
48 deems necessary for the proper administration of the tax imposed pursu-  
49 ant to this article, including provisions concerning the determination  
50 of tax, the imposition of interest on underpayments and overpayments and  
51 the imposition of civil penalties. Such provisions shall be identical to  
52 the corresponding provisions of the real estate transfer tax imposed by  
53 article thirty-one of this chapter, so far as such provisions can be  
54 made applicable to the tax imposed pursuant to this article.

55 § 1450-o. Returns to be secret. 1. Except in accordance with proper  
56 judicial order or as otherwise provided by law, it shall be unlawful for

1 the treasurer or any officer or employee of the county or town, includ-  
2 ing any person engaged or retained on an independent contract basis, to  
3 divulge or make known in any manner the particulars set forth or  
4 disclosed in any return required under a local law enacted pursuant to  
5 this article. However, that nothing in this section shall prohibit the  
6 recording officer from making a notation on an instrument effecting a  
7 conveyance indicating the amount of tax paid. No recorded instrument  
8 effecting a conveyance shall be considered a return for purposes of this  
9 section.

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

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

31 4. Any officer or employee of such county or town who willfully  
32 violates the provisions of this section shall be dismissed from office  
33 and be incapable of holding any public office in this state for a period  
34 of five years thereafter.

35 § 3. Severability. If any provision of this act or the application  
36 thereof shall for any reason be adjudged by any court of competent  
37 jurisdiction to be invalid, such judgment shall not affect, impair, or  
38 invalidate the remainder of this act, but shall be confined in its oper-  
39 ation to the provision thereof directly involved in the controversy in  
40 which such judgment shall have been rendered.

41 § 4. This act shall take effect immediately; provided, however, that  
42 section two of this act shall take effect on the ninetieth day after it  
43 shall have become a law and shall expire December 31, 2045 when upon  
44 such date the provisions of such section shall be deemed repealed.