

# STATE OF NEW YORK

8267

2025-2026 Regular Sessions

## IN SENATE

May 28, 2025

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

AN ACT to amend the town law and the tax law, in relation to authorizing 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 64-1 to read as  
4 follows:

5 § 64-1. 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  
22 such person's purchase of the primary residential property, and who does  
23 not own a vacation or investment home.

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

LBD11037-01-5

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

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

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

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

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

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

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

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

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

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

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

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

51 (c) the actual production of community housing for sale to eligible  
52 individuals in conjunction with a public/private partnership, where the  
53 private partner agrees to comply with the profit guidelines of the New  
54 York state affordable housing corporation and the provisions of this  
55 section;

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

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

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

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

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

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

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

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

55 (1) Public investment. To account for and minimize social, economic,  
56 and environmental costs of new development, including infrastructure

1 costs such as transportation, sewers, and wastewater treatment, water,  
2 schools, recreation, and loss of open space and agricultural land;

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

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

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

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

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

26 (7) Consistency. To ensure predictability in building and land use  
27 codes; and

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

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

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

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

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

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

53 8. Village participation. (a) The participation of any village in the  
54 production of community housing authorized by this section shall be at  
55 the option of the village. In order to participate, a village shall pass

1 a resolution opting into the program and shall submit said resolution to  
2 the town board.

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

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

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

14 ARTICLE 31-J  
15 TAX ON REAL ESTATE TRANSFERS  
16 IN THE TOWN OF ROCHESTER

17 Section 1449-aaaaaaa. Definitions.

18 1449-bbbbbbbb. Imposition of tax.

19 1449-ccccccc. Payment of tax.

20 1449-dddddddd. Liability for tax.

21 1449-eeeeeee. Exemptions.

22 1449-fffffff. Credit.

23 1449-gggggggg. Cooperative housing corporation transfers.

24 1449-hhhhhhhh. Designation of agents.

25 1449-iiiiiiii. Liability of recording officer.

26 1449-jjjjjjjj. Refunds.

27 1449-kkkkkkkk. Deposit and disposition of revenue.

28 1449-llllllll. Judicial review.

29 1449-mmmmmmmm. Apportionment.

30 1449-nnnnnnnn. Miscellaneous.

31 1449-oooooooo. Returns to be secret.

32 1449-pppppppp. Foreclosure proceedings.

33 § 1449-aaaaaaa. Definitions. When used in this article, unless other-  
34 wise expressly stated, the following words and terms shall have the  
35 following meanings:

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

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

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

54 4. "Consideration" means the price actually paid or required to be  
55 paid for the real property or interest therein, including payment for an  
56 option or contract to purchase real property, whether or not expressed

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

48 § 1449-bbbbbbbb. Imposition of tax. Notwithstanding any other  
49 provisions of law to the contrary, in addition to the tax authorized by  
50 subdivision one of this section, the town, acting through its town  
51 board, is hereby authorized and empowered to adopt a local law imposing  
52 in such town a supplemental tax on each conveyance of real property or  
53 interest therein where the consideration exceeds five hundred dollars,  
54 at the rate of one half of one percent of the consideration for such  
55 conveyance. Provided, however, any such local law imposing, repealing or  
56 re-imposing such supplemental tax shall be subject to a mandatory refer-

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

16 § 1449-cccccccc. Payment of tax. 1. The real estate transfer tax  
17 imposed pursuant to this article shall be paid to the treasurer or the  
18 recording officer acting as the agent of the treasurer upon designation  
19 as such agent by the treasurer. Such tax shall be paid at the same time  
20 as the real estate transfer tax imposed by article thirty-one of this  
21 chapter is required to be paid. Such treasurer or recording officer  
22 shall endorse upon each deed or instrument effecting a conveyance a  
23 receipt for the amount of the tax so paid.

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

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

43 § 1449-dddddddd. Liability for tax. 1. The real estate transfer tax  
44 shall be paid by the grantee. If the grantee has failed to pay the tax  
45 imposed pursuant to this article or if the grantee is exempt from such  
46 tax, the grantor shall have the duty to pay the tax. Where the grantor  
47 has the duty to pay the tax because the grantee has failed to pay the  
48 tax, such tax shall be the joint and several liability of the grantee  
49 and the grantor.

50 2. For the purpose of the proper administration of this article and to  
51 prevent evasion of the tax hereby imposed, it shall be presumed that all  
52 conveyances are subject to the tax. Where the consideration includes  
53 property other than money, it shall be presumed that the consideration  
54 is the fair market value of the real property or interest therein. These  
55 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 § 1449-eeeeeeee. 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 § 1449-ffffff. Credit. A grantee shall be allowed a credit against  
15 the tax due on a conveyance of real property to the extent tax was paid  
16 by such grantee on a prior creation of a leasehold of all or a portion  
17 of the 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 § 1449-gggggggg. Cooperative housing corporation transfers. 1.  
27 Notwithstanding the definition of "controlling interest" contained in  
28 subdivision two of section fourteen hundred forty-nine-aaaaaaa of this  
29 article or anything to the contrary contained in subdivision five of  
30 section fourteen hundred forty-nine-aaaaaaa of this article, the tax  
31 imposed pursuant to this article shall apply to (a) the original convey-  
32 ance of shares of stock in a cooperative housing corporation in  
33 connection with the grant or transfer of a proprietary leasehold by the  
34 cooperative corporation or cooperative plan sponsor, and (b) the subse-  
35 quent conveyance of such stock in a cooperative housing corporation in  
36 connection with the grant or transfer of a proprietary leasehold by the  
37 owner thereof. With respect to any such subsequent conveyance where the  
38 property is an individual residential unit, the consideration for the  
39 interest conveyed shall exclude the value of any liens on certificates  
40 of stock or other evidences of an ownership interest in and a proprie-  
41 tary lease from a corporation or partnership formed for the purpose of  
42 cooperative ownership of residential interest in real estate remaining  
43 thereon at the time of conveyance. In determining the tax on a convey-  
44 ance described in paragraph (a) of this subdivision, a credit shall be  
45 allowed for a proportionate part of the amount of any tax paid upon the  
46 conveyance to the cooperative housing corporation of the real property  
47 comprising the cooperative dwelling or dwellings to the extent that such  
48 conveyance effectuated a mere change of identity or form of ownership of  
49 such property and not a change in the beneficial ownership of such prop-  
50 erty. The amount of the credit shall be determined by multiplying the  
51 amount of tax paid upon the conveyance to the cooperative housing corpo-  
52 ration by a percentage representing the extent to which such conveyance  
53 effectuated a mere change of identity or form of ownership and not a  
54 change in the beneficial ownership of such property, and then multiply-  
55 ing the resulting product by a fraction, the numerator of which shall be  
56 the number of shares of stock conveyed in a transaction described in

1 paragraph (a) of this subdivision, and the denominator of which shall be  
 2 the total number of shares of stock of the cooperative housing corpo-  
 3 ration (including any stock held by the corporation). In no event,  
 4 however, shall such credit reduce the tax, on a conveyance described in  
 5 paragraph (a) of this subdivision, below zero, nor shall any such credit  
 6 be allowed for a tax paid more than twenty-four months prior to the date  
 7 on which occurs the first in a series of conveyances of shares of stock  
 8 in an offering of cooperative housing corporation shares described in  
 9 paragraph (a) of 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 § 1449-hhhhhhhh. Designation of agents. The treasurer is authorized to  
 22 designate the recording officer to act as such treasurer's agent for  
 23 purposes of collecting the tax authorized by this article. The treasurer  
 24 shall provide for the manner in which such person may be designated as  
 25 such treasurer's agent subject to such terms and conditions as the trea-  
 26 surer shall prescribe. The real estate transfer tax shall be paid to  
 27 such agent as provided in section fourteen hundred forty-nine-ccccccc  
 28 of this article.

29 § 1449-iiiiiiii. Liability of recording officer. A recording officer  
 30 shall not be liable for any inaccuracy in the amount of tax imposed  
 31 pursuant to this article that such officer shall collect so long as such  
 32 officer shall compute and collect such tax on the amount of consider-  
 33 ation or the value of the interest conveyed as such amounts are provided  
 34 to such officer by the person paying the tax.

35 § 1449-jjjjjjjj. Refunds. Whenever the treasurer shall determine that  
 36 any moneys received under the provisions of the local law enacted pursu-  
 37 ant to this article were paid in error, such treasurer may cause such  
 38 moneys to be refunded pursuant to such requirements as such treasurer  
 39 may prescribe, provided that any application for such refund is filed  
 40 with the treasurer within two years from the date the erroneous payment  
 41 was made.

42 § 1449-kkkkkkkk. Deposit and disposition of revenue. 1. All taxes,  
 43 penalties and interest imposed by the town under the authority of  
 44 section fourteen hundred forty-nine-bbbbbbbb of this article, which are  
 45 collected by the treasurer or such treasurer's agents, shall be deposit-  
 46 ed in a single trust fund for the town and shall be kept in trust and  
 47 separate and apart from all other monies in possession of the treasurer.  
 48 Moneys in such fund shall be deposited and secured in the manner  
 49 provided by section ten of the general municipal law. Pending expendi-  
 50 ture from such fund, moneys therein may be invested in the manner  
 51 provided in section eleven of the general municipal law. Any interest  
 52 earned or capital gain realized on the moneys so deposited or invested  
 53 shall accrue to and become part of 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 forty-nine-

1 bbbbbbbbb of this article, out of which the treasurer shall pay any  
2 refunds of such taxes to those taxpayers entitled to a refund pursuant  
3 to the provisions 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 forty-nine-bbbbbbbb of this article, collected by the  
8 treasurer, pursuant to this article during the next preceding calendar  
9 month. The amount so payable shall be certified to the town supervisor  
10 by the treasurer, who shall not be held liable for any inaccuracy in  
11 such certification. Provided, however, any such certification may be  
12 based on such information as may be available to the treasurer at the  
13 time such certification must be made under this section. Where the  
14 amount so paid over to the town in any such distribution is more or less  
15 than the amount due to the town, the amount of the overpayment or under-  
16 payment shall be certified to the town supervisor by the treasurer, who  
17 shall not be held liable for any inaccuracy in such certification. The  
18 amount of the overpayment or underpayment shall be so certified to the  
19 town supervisor as soon after the discovery of the overpayment or under-  
20 payment as reasonably possible and subsequent payments and distributions  
21 by the treasurer to the town shall be adjusted by subtracting the amount  
22 of any such overpayment from or by adding the amount of any such under-  
23 payment 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-1 of the town law.

28 § 1449-llllllll. Judicial review. 1. Any final determination of the  
29 amount of any tax payable under section fourteen hundred forty-nine-  
30 ccccccc of this article shall be reviewable for error, illegality or  
31 unconstitutionality or any other reason whatsoever by a proceeding under  
32 article seventy-eight of the civil practice law and rules if application  
33 therefor is made to the supreme court within four months after the  
34 giving of the notice of such final determination, provided, however,  
35 that any such proceeding under article seventy-eight of the civil prac-  
36 tice law and rules shall not be instituted unless (a) the amount of any  
37 tax sought to be reviewed, with such interest and penalties thereon as  
38 may be provided for by local law shall be first deposited and there is  
39 filed an undertaking, issued by a surety company authorized to transact  
40 business in this state and approved by the state superintendent of  
41 financial services as to solvency and responsibility, in such amount as  
42 a justice of the supreme court shall approve to the effect that if such  
43 proceeding be dismissed or the tax confirmed the petitioner will pay all  
44 costs and charges which may accrue in the prosecution of such proceeding  
45 or (b) at the option of the petitioner, such undertaking may be in a sum  
46 sufficient to cover the taxes, interest and penalties stated in such  
47 determination, plus the costs and charges which may accrue against it in  
48 the prosecution of the proceeding, in which event the petitioner shall  
49 not 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 § 1449-~~mmmmmmmmmm~~. Apportionment. A local law adopted by the town of  
10 Rochester, pursuant to this article, shall provide for a method of  
11 apportionment for determining the amount of tax due whenever the real  
12 property or interest therein is situated within and without the town.

13 § 1449-~~nnnnnnnn~~. Miscellaneous. A local law adopted by the town of  
14 Rochester, pursuant to this article, may contain such other provisions  
15 as the town deems necessary for the proper administration of the tax  
16 imposed pursuant to this article, including provisions concerning the  
17 determination of tax, the imposition of interest on underpayments and  
18 overpayments and the imposition of civil penalties. Such provisions  
19 shall be identical to the corresponding provisions of the real estate  
20 transfer tax imposed by article thirty-one of this chapter, so far as  
21 such provisions can be made applicable to the tax imposed pursuant to  
22 this article.

23 § 1449-~~oooooo~~. Returns to be secret. 1. Except in accordance with  
24 proper judicial order or as otherwise provided by law, it shall be  
25 unlawful for the treasurer or any officer or employee of the county or  
26 town, including any person engaged or retained on an independent  
27 contract basis, to divulge or make known in any manner the particulars  
28 set forth or disclosed in any return required under a local law enacted  
29 pursuant to this article. However, that nothing in this section shall  
30 prohibit the recording officer from making a notation on an instrument  
31 effecting a conveyance indicating the amount of tax paid. No recorded  
32 instrument effecting a conveyance shall be considered a return for  
33 purposes of this section.

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

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

55 4. Any officer or employee of such county or town who willfully  
56 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 § 1449-pppppppp. Foreclosure proceedings. Where the conveyance  
4 consists of a transfer of property made as a result of an order of the  
5 court in a foreclosure proceeding ordering the sale of such property,  
6 the referee or sheriff effectuating such transfer shall not be liable  
7 for any interest or penalties that are authorized pursuant to this arti-  
8 cle or article thirty-seven of this chapter.

9 § 4. This act shall take effect immediately.