

STATE OF NEW YORK

6664--A

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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

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

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

30 5. Preservation of community character shall involve one or more of
31 the following:

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

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

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

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

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

1 conditional purchase agreement before a public hearing is held. Any
2 resolution of the town board approving an acquisition of rights or
3 interest in real property pursuant to this section, shall find that
4 acquisition was the best alternative for the protection of community
5 character of all the reasonable alternatives available to the town.

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

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

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

ARTICLE 31-J
TAX ON REAL ESTATE TRANSFERS
IN THE TOWN OF COPEN

Section 1450-a. Definitions.

1450-b. Imposition of tax.

1450-c. Payment of tax.

1450-d. Liability for tax.

1450-e. Exemptions.

1450-f. Credit.

1450-g. Cooperative housing corporation transfers.

1450-h. Designation of agents.

1450-i. Liability of recording officer.

1450-j. Refunds.

1450-k. Deposit and disposition of revenue.

1450-l. Judicial review.

1450-m. Apportionment.

1450-n. Miscellaneous.

1450-o. Returns to be secret.

1450-p. Foreclosure proceedings.

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

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

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

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

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

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

1 (b) In the case of a creation of a subleasehold interest, consider-
2 ation shall include, but not be limited to, the value of the sublease
3 rental payments attributable to the use and occupancy of the real prop-
4 erty, the value of any amount paid for an option to renew and the value
5 of rental or other payments attributable to the exercise of any option
6 to renew less the value of the remaining prime lease rental payments
7 required to be made.

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

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

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

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

53 6. "Interest in the real property" includes title in fee, a leasehold
54 interest, a beneficial interest, an encumbrance, development rights, air
55 space and air rights, or any other interest with the right to use or
56 occupancy of real property or the right to receive rents, profits or

1 other income derived from real property. It shall also include an option
2 or contract to purchase real property. It shall not include a right of
3 first refusal to purchase real property.

4 7. "Grantor" means the person making the conveyance of real property
5 or interest therein. Where the conveyance consists of a transfer or an
6 acquisition of a controlling interest in an entity with an interest in
7 real property, "grantor" means the entity with an interest in real prop-
8 erty or a shareholder or partner transferring stock or partnership
9 interest, respectively.

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

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

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

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

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

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

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

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

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

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

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

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

1 § 1450-c. Payment of tax. 1. The real estate transfer tax imposed
2 pursuant to this article shall be paid to the treasurer or the recording
3 officer acting as the agent of the treasurer upon designation as such
4 agent by the treasurer. Such tax shall be paid at the same time as the
5 real estate transfer tax imposed by article thirty-one of this chapter
6 is required to be paid. Such treasurer or recording officer shall
7 endorse upon each deed or instrument effecting a conveyance a receipt
8 for the amount of the tax so paid.

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

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

28 § 1450-d. Liability for tax. 1. The real estate transfer tax shall be
29 paid by the grantee. If the grantee has failed to pay the tax imposed
30 pursuant to this article or if the grantee is exempt from such tax, the
31 grantor shall have the duty to pay the tax. Where the grantor has the
32 duty to pay the tax because the grantee has failed to pay the tax, such
33 tax shall be the joint and several liability of the grantee and the
34 grantor.

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

43 § 1450-e. Exemptions. 1. The following shall be exempt from the
44 payment of the real estate transfer tax imposed by this article:

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

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

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

52 (a) Conveyances to the United Nations, the United States of America,
53 the state of New York, or any of their instrumentalities, agencies or
54 political subdivisions (or any public corporation, including a public
55 corporation created pursuant to agreement or compact with another state
56 or the Dominion of Canada);

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

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

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

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

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

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

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

15 (i) Conveyances of real property which consist of the execution of a
16 contract to sell real property without the use or occupancy of such
17 property or the granting of an option to purchase real property without
18 the use or occupancy of such property;

19 (j) Conveyances of real property or a portion or portions of real
20 property that are the subject of one or more of the following develop-
21 ment restrictions:

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

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

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

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

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

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

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

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

54 § 1450-f. Credit. A grantee shall be allowed a credit against the tax
55 due on a conveyance of real property to the extent tax was paid by such
56 grantee on a prior creation of a leasehold of all or a portion of the

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

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

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

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

5 § 1450-h. Designation of agents. The treasurer is authorized to desig-
6 nate the recording officer to act as their agent for purposes of
7 collecting the tax authorized by this article. The treasurer shall
8 provide for the manner in which such person may be designated as their
9 agent subject to such terms and conditions as the treasurer shall
10 prescribe. The real estate transfer tax shall be paid to such agent as
11 provided in section fourteen hundred fifty-c of this article.

12 § 1450-i. Liability of recording officer. A recording officer shall
13 not be liable for any inaccuracy in the amount of tax imposed pursuant
14 to this article that they shall collect so long as they shall compute
15 and collect such tax on the amount of consideration or the value of the
16 interest conveyed as such amounts are provided to them by the person
17 paying the tax.

18 § 1450-j. Refunds. Whenever the treasurer shall determine that any
19 moneys received under the provisions of the local law enacted pursuant
20 to this article were paid in error, they may cause such moneys to be
21 refunded pursuant to such requirements as they may prescribe, provided
22 that any application for such refund is filed with the treasurer within
23 two years from the date the erroneous payment was made.

24 § 1450-k. Deposit and disposition of revenue. 1. All taxes, penalties
25 and interest imposed by the town under the authority of section fourteen
26 hundred fifty-b of this article, which are collected by the treasurer or
27 their agents, shall be deposited in a single trust fund for the town and
28 shall be kept in trust and separate and apart from all other monies in
29 possession of the treasurer. Moneys in such fund shall be deposited and
30 secured in the manner provided by section ten of the general municipal
31 law. Pending expenditure from such fund, moneys therein may be invested
32 in the manner provided in section eleven of the general municipal law.
33 Any interest earned or capital gain realized on the moneys so deposited
34 or invested shall accrue to and become part of such fund.

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

41 3. The treasurer, after reserving such refunds, shall on or before the
42 twelfth day of each month pay to the town supervisor the taxes, penal-
43 ties and interest imposed by the town under the authority of section
44 fourteen hundred fifty-b of this article, collected by the treasurer,
45 pursuant to this article during the next preceding calendar month. The
46 amount so payable shall be certified to the town supervisor by the trea-
47 surer, who shall not be held liable for any inaccuracy in such certif-
48 ication. Provided, however, any such certification may be based on such
49 information as may be available to the treasurer at the time such
50 certification must be made under this section. Where the amount so paid
51 over to the town in any such distribution is more or less than the
52 amount due to the town, the amount of the overpayment or underpayment
53 shall be certified to the town supervisor by the treasurer, who shall
54 not be held liable for any inaccuracy in such certification. The amount
55 of the overpayment or underpayment shall be so certified to the town
56 supervisor as soon after the discovery of the overpayment or underpay-

1 ment as reasonably possible and subsequent payments and distributions by
2 the treasurer to the town shall be adjusted by subtracting the amount of
3 any such overpayment from or by adding the amount of any such underpay-
4 ment to such number of subsequent payments and distributions as the
5 treasurer and town supervisor shall consider reasonable in view of the
6 overpayment or underpayment and all other facts and circumstances.

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

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

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

46 § 1450-m. Apportionment. A local law adopted by the town of Copake,
47 pursuant to this article, shall provide for a method of apportionment
48 for determining the amount of tax due whenever the real property or
49 interest therein is situated within and without the town.

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

1 article thirty-one of this chapter, so far as such provisions can be
2 made applicable to the tax imposed pursuant to this article.

3 § 1450-o. Returns to be secret. 1. Except in accordance with proper
4 judicial order or as otherwise provided by law, it shall be unlawful for
5 the treasurer or any officer or employee of the county or town, includ-
6 ing any person engaged or retained on an independent contract basis, to
7 divulge or make known in any manner the particulars set forth or
8 disclosed in any return required under a local law enacted pursuant to
9 this article. However, that nothing in this section shall prohibit the
10 recording officer from making a notation on an instrument effecting a
11 conveyance indicating the amount of tax paid. No recorded instrument
12 effecting a conveyance shall be considered a return for purposes of this
13 section.

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

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

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

39 § 1450-p. Foreclosure proceedings. Where the conveyance consists of
40 transfer of property made as a result of an order of the court in a
41 foreclosure proceeding ordering the sale of such property, the referee
42 or sheriff effectuating such transfer shall not be liable for any inter-
43 est or penalties that are authorized pursuant to this article or article
44 thirty-seven of this chapter.

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

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