

STATE OF NEW YORK

8267--B

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 -- recommended to the Committee on Local Government in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the town law and the tax law, in relation to authorizing the town of Rochester to establish community housing funds to be funded by a supplemental real estate transfer tax

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "Town of Rochester community housing act".

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

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

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

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

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

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

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

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

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

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

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

28 3. Purposes of the fund. The proceeds of the fund established pursuant
29 to subdivision two of this section shall be utilized for the following
30 purposes:

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

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

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

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

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

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

51 (6) A town may provide financial assistance for community housing in
52 conjunction with a public/private partnership for employer assisted
53 housing.

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

1 (c) the actual production of community housing for sale to eligible
2 individuals in conjunction with a public/private partnership, where the
3 private partner agrees to comply with the profit guidelines of the New
4 York state affordable housing corporation and the provisions of this
5 section;

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

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

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

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

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

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

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

54 7. Adoption of housing plan. (a) Before the town may expend any funds
55 pursuant to this section, the town board shall first adopt a town hous-
56 ing plan which establishes an implementation plan for the provision of

1 community housing opportunities by the fund. Said plan shall be adopted
2 by local law. Such plan shall adhere to the following smart growth prin-
3 ciples:

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

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

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

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

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

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

31 (7) Consistency. To ensure predictability in building and land use
32 codes; and

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

38 (b) Such plan may include the establishment of a map or maps that
39 delineate the housing implementation recommendations proposed by the
40 town.

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

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

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

51 (f) Such plan shall provide for the equitable distribution of communi-
52 ty housing opportunities among all the communities of the town. The plan
53 shall ensure that no community has an undue concentration of community
54 housing opportunities that would substantially alter the character of
55 the community. In determining equitable distribution of community hous-

ing opportunities, existing community housing opportunities in a community shall be considered.

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

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

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

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

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

Section 1451-a. Definitions.

1451-b. Imposition of tax.

1451-c. Payment of tax.

1451-d. Liability for tax.

1451-e. Exemptions.

1451-f. Credit.

1451-g. Cooperative housing corporation transfers.

1451-h. Designation of agents.

1451-i. Liability of recording officer.

1451-j. Refunds.

1451-k. Deposit and disposition of revenue.

1451-l. Judicial review.

1451-m. Apportionment.

1451-n. Miscellaneous.

1451-o. Returns to be secret.

1451-p. Foreclosure proceedings.

§ 1451-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,

1 which are located in whole or in part within the town of Rochester. It
2 shall not include rights to sepulture.

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

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

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

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

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

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

52 5. "Conveyance" means the transfer or transfers of any interest in
53 real property by any method, including but not limited to, sale,
54 exchange, assignment, surrender, mortgage foreclosure, transfer in lieu
55 of foreclosure, option, trust indenture, taking by eminent domain,
56 conveyance upon liquidation or by a receiver, or transfer or acquisition

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

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

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

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

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

32 10. "Recording officer" means the county clerk of the county of
33 Ulster.

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

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

36 13. "Town supervisor" means the town supervisor of the town of Roches-
37 ter.

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

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

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

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

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

53 § 1451-b. Imposition of tax. Notwithstanding any other provisions of
54 law to the contrary, in addition to the tax authorized by subdivision
55 one of this section, the town, acting through its town board, is hereby
56 authorized and empowered to adopt a local law imposing in such town a

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

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

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

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

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

55 2. For the purpose of the proper administration of this article and to
56 prevent evasion of the tax hereby imposed, it shall be presumed that all

1 conveyances are subject to the tax. Where the consideration includes
2 property other than money, it shall be presumed that the consideration
3 is the fair market value of the real property or interest therein. These
4 presumptions shall prevail until the contrary is proven, and the burden
5 of proving the contrary shall be on the person liable for payment of the
6 tax.

7 § 1451-e. Exemptions. 1. The following shall be exempt from the
8 payment of the real estate transfer tax imposed by this article:

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

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

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

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

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

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

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

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

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

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

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

35 (i) Conveyances of real property which consist of the execution of a
36 contract to sell real property without the use or occupancy of such
37 property or the granting of an option to purchase real property without
38 the use or occupancy of such property;

39 (j) Conveyances of real property or a portion or portions of real
40 property that are the subject of one or more of the following develop-
41 ment restrictions:

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

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

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

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

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

54 (k) Conveyances of real property, where the property is viable agri-
55 cultural land as defined in subdivision seven of section three hundred
56 one of the agriculture and markets law and the entire property to be

1 conveyed is to be made subject to one of the development restrictions
2 provided for in subparagraph two of paragraph (j) of this subdivision
3 provided that said development restriction precludes the conversion of
4 the property to a non-agricultural use for at least eight years from the
5 date of transfer, and said development restriction is evidenced by an
6 easement, agreement, or other suitable instrument which is to be
7 conveyed to the town simultaneously with the conveyance of the real
8 property; or

9 (1) conveyances of real property for open space, parks, or historic
10 preservation purposes to any not-for-profit tax exempt corporation oper-
11 ated for conservation, environmental, or historic preservation purposes.

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

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

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

1 change of identity or form of ownership and not a change in the benefi-
2 cial ownership of such property, and then multiplying the resulting
3 product by a fraction, the numerator of which shall be the number of
4 shares of stock conveyed in a transaction described in paragraph (a) of
5 this subdivision, and the denominator of which shall be the total number
6 of shares of stock of the cooperative housing corporation (including any
7 stock held by the corporation). In no event, however, shall such credit
8 reduce the tax, on a conveyance described in paragraph (a) of this
9 subdivision, below zero, nor shall any such credit be allowed for a tax
10 paid more than twenty-four months prior to the date on which occurs the
11 first in a series of conveyances of shares of stock in an offering of
12 cooperative housing corporation shares described in paragraph (a) of
13 this subdivision.

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

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

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

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

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

1 the moneys so deposited or invested shall accrue to and become part of
2 such fund.

3 2. The treasurer shall retain such amount as such treasurer may deter-
4 mine to be necessary for refunds with respect to the tax imposed by the
5 town, under the authority of section fourteen hundred fifty-one-b of
6 this article, out of which the treasurer shall pay any refunds of such
7 taxes to those taxpayers entitled to a refund pursuant to the provisions
8 of this article.

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

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

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

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

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

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

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

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

3. Nothing herein shall be construed to prohibit the delivery to a grantor or grantee of an instrument effecting a conveyance or the duly authorized representative of a grantor or grantee of a certified copy of any return filed in connection with such instrument or to prohibit the publication of statistics so classified as to prevent the identification of particular returns and the items thereof, or the inspection by the

1 legal representatives of such county or town of the return of any
2 taxpayer who shall bring action to set aside or review the tax based
3 thereon.

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

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

14 § 4. This act shall take effect immediately.