

STATE OF NEW YORK

9674

IN SENATE

April 1, 2026

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

AN ACT to amend the general municipal law, in relation to authorizing cities and towns, except a city with a population of one million or more, to establish community housing funds; to amend the tax law, in relation to authorizing cities and towns, except a city with a population of one million or more, to impose a real estate transfer tax with revenues therefrom to be deposited in such funds; and providing for the repeal of certain provisions of the tax law relating thereto

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

1 Section 1. The general municipal law is amended by adding a new
2 section 6-w to read as follows:

3 § 6-w. Community housing fund. 1. Definitions. As used in this
4 section, the following words and terms shall have the following mean-
5 ings:

6 (a) "City or town" means a city, except a city with a population of
7 one million or more, or a town.

8 (b) "Community housing" means a primary residential property for an
9 eligible individual. The governing body shall establish, by local law,
10 purchase price limit for community housing, provided that limit shall
11 not exceed one hundred fifty percent of the purchase price limits estab-
12 lished by the state of New York mortgage agency low interest rate loan
13 program in non-target categories for the county in effect on the
14 contract date for the sale of such property. Community housing shall
15 include apartments that are accessory to a legally established residen-
16 tial or commercial use.

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

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

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

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

LBD00173-01-5

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

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

5 (g) "Eligible individual" shall be defined by the governing body, by
6 local law, provided that the definition of household income in such
7 local law shall not exceed one hundred percent of the income limits as
8 established by the state of New York mortgage agency low interest rate
9 loan program in non-target categories for the county in effect on the
10 contract date for the sale of such property.

11 (h) "Governing body" means a city council or town board.

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

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

29 (a) the provision of financial assistance to first-time homebuyers who
30 are residents of the city or town for the purchase of a first home. Such
31 financial assistance may be in the form of a grant or a loan and such
32 program shall meet the following criteria:

33 (1) A city or town may provide financial assistance for the purchase
34 of a first home to a first-time homebuyer who is a resident of the city
35 or town or who is employed in the city or town. A resident of the city
36 or town shall include a person who is currently a resident of the city
37 or town or a non-resident who has been a resident within the past five
38 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 city or town pursuant to the terms agreed to
43 between the recipient and the city or town, provided that any loan shall
44 be fully repaid by the recipient upon the resale of the home.

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

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

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

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

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

15 (f) the acquisition of interests in real property in existing housing
16 stock, 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 city or town from the sale
36 or rental of community housing, or the repayment of loans shall be
37 deposited in the fund.

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

55 7. Adoption of housing plan. (a) Before a city or town may expend any
56 funds pursuant to this section, the governing body shall first adopt a

1 housing plan which establishes an implementation plan for the provision
2 of community housing opportunities by the fund. Said plan shall be
3 adopted by local law. Such plan shall adhere to the following princi-
4 ples:

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

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

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

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

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

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

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

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

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

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

42 (d) The housing plan shall be an element of the city or town compre-
43 hensive plan.

44 (e) Such plan shall ensure that all community housing, created pursu-
45 ant to this section, remains affordable. Subsequent purchasers of such
46 community housing, at the time of purchase, shall be eligible individ-
47 uals as defined herein.

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

55 8. Village participation. (a) The participation of any village, where
56 there is a town community housing fund, in the production of community

1 housing authorized by this section, shall be at the option of the
2 village. In order to participate, a village shall pass a resolution
3 opting into the program and shall submit said resolution to the town
4 board.

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

10 (c) Regardless of whether a village participates in the program
11 authorized by this section, properties in the village shall be subject
12 to the supplemental real estate transfer tax authorized by section four-
13 teen hundred forty-nine-bb of the tax law.

14 § 2. The tax law is amended by adding a new article 33-C to read as
15 follows:

16 ARTICLE 33-C

17 TAX ON REAL ESTATE TRANSFERS IN CITIES OR TOWNS

18 Section 1575. Definitions.

19 1576. Imposition of tax.

20 1577. Payment of tax.

21 1578. Liability for tax.

22 1579. Exemptions.

23 1580. Credit.

24 1581. Cooperative housing corporation transfers.

25 1582. Designation of agents.

26 1583. Liability of recording officer.

27 1584. Deposit and disposition of revenue.

28 1585. Judicial review.

29 1586. Apportionment.

30 1587. Miscellaneous.

31 1588. Returns to be secret.

32 1589. Foreclosure proceedings.

33 § 1575. Definitions. When used in this article, unless otherwise
34 expressly stated, the following words and terms shall have the following
35 meanings:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9. "Community housing fund" means a community fund created pursuant to section six-w of the general municipal law.

10. "Recording officer" means the county clerk.

11. "City or town" means a city or town, except a city of one million or more.

12. "Treasurer" means the county treasurer.

§ 1576. Imposition of tax. Notwithstanding any other provisions of law to the contrary, any city or town, acting through its governing body, is hereby authorized and empowered to adopt a local law imposing in such city or town a supplemental tax on each conveyance of real property or interest therein where the consideration exceeds five hundred dollars, at the rate of up to one half of one percent of the consideration for such conveyance. Provided, however, any such local law imposing, repealing or re-imposing such supplemental tax shall be subject to a mandatory referendum pursuant to section twenty-three of the municipal home rule law. Notwithstanding the foregoing, prior to adoption of such local law, the city or town must establish a community housing fund pursuant to section six-w of the general municipal law. Revenues from such supplemental tax shall be deposited in such community housing fund and may be used solely for the purposes of such community housing fund. Such local law shall apply to any conveyance occurring on or after the first day of a month to be designated by the governing board, which is not less than sixty days after the enactment of such local law, but shall not apply to conveyances made on or after such date pursuant to binding written contracts entered into prior to such date, provided that the date of execution of such contract is confirmed by independent evidence such as the recording of the contract, payment of a deposit or other facts and circumstances as determined by the treasurer.

§ 1577. Payment of tax. 1. The real estate transfer tax imposed pursuant to this article shall be paid to the treasurer or the recording officer acting as the agent of the treasurer upon designation as such agent by the treasurer. Such tax shall be paid at the same time as the

1 real estate transfer tax imposed by article thirty-one of this chapter
2 is required to be paid. Such treasurer or recording officer shall
3 endorse upon each deed or instrument effecting a conveyance a receipt
4 for the amount of the tax so paid.

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

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

24 § 1578. Liability for tax. 1. The real estate transfer tax shall be
25 paid by the grantee. If the grantee has failed to pay the tax imposed
26 pursuant to this article or if the grantee is exempt from such tax, the
27 grantor shall have the duty to pay the tax. Where the grantor has the
28 duty to pay the tax because the grantee has failed to pay the tax, such
29 tax shall be the joint and several liability of the grantee and the
30 grantor.

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

39 § 1579. Exemptions. 1. The following shall be exempt from the payment
40 of the real estate transfer tax: (a) the state of New York, or any of
41 its agencies, instrumentalities, political subdivisions, or public
42 corporations, including a public corporation created pursuant to an
43 agreement or compact with another state or Canada; and

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

46 2. The tax shall not apply to any of the following conveyances: (a)
47 conveyances to the United Nations, the United States of America, the
48 state of New York, or any of their instrumentalities, agencies or poli-
49 tical subdivisions, or any public corporation, including a public corpo-
50 ration created pursuant to agreement or compact with another state or
51 the Dominion of Canada; (b) conveyances which are or were used to secure
52 a debt or other obligation; (c) conveyances which, without additional
53 consideration, confirm, correct, modify or supplement a deed previously
54 recorded; (d) conveyances of real property without consideration and
55 otherwise than in connection with a sale, including deeds conveying
56 realty as bona fide gifts; (e) conveyances given in connection with a

1 tax sale; (f) conveyances to effectuate a mere change of identity or
2 form of ownership or organization where there is no change in beneficial
3 ownership, other than conveyances to a cooperative housing corporation
4 of the real property comprising the cooperative dwelling or dwellings;
5 (g) conveyances which consist of a deed of partition; (h) conveyances
6 given pursuant to the federal bankruptcy act; (i) conveyances of real
7 property which consist of the execution of a contract to sell real prop-
8 erty without the use or occupancy of such property or the granting of an
9 option to purchase real property without the use or occupancy of such
10 property; (j) conveyances of real property, where the entire parcel of
11 real property to be conveyed is the subject of one or more of the
12 following development restrictions: (1) agricultural, conservation,
13 scenic, or an open space easement, (2) covenants or restrictions prohib-
14 iting development, (3) a purchase of development rights agreement, (4) a
15 transfer of development rights agreement, where the property being
16 conveyed has had its development rights removed, (5) said real property
17 is subject to the development restriction of an agricultural district or
18 individual commitment, pursuant to article twenty-five-AA of the agri-
19 culture and markets law, (6) real property subject to any locally
20 adopted land preservation agreement, provided said exemption is included
21 in the local law imposing the tax authorized by this article; (k)
22 conveyances of real property, where the property is viable agricultural
23 land as defined in subdivision seven of section three hundred one of the
24 agriculture and markets law and the entire property to be conveyed is to
25 be made subject to one of the development restrictions provided for in
26 subparagraph two of paragraph (j) of this subdivision provided that said
27 development restriction precludes the conversion of the property to a
28 non-agricultural use for at least three years from the date of transfer,
29 and said development restriction is evidenced by an easement, agreement,
30 or other suitable instrument which is to be conveyed to the city or town
31 simultaneously with the conveyance of the real property; or (l) convey-
32 ances of real property for open space, parks, community housing, or
33 historic preservation purposes to any not-for-profit tax exempt corpo-
34 ration operated for conservation, environmental, community housing or
35 historic preservation purposes.

36 3. The governing body of a city or town, by local law may establish a
37 community housing exemption from the payment of the real estate transfer
38 tax. Such exemption may not exceed an amount equal to the residential
39 median sale price of the county in which the city or town is located, as
40 determined by the office of real property services within the department
41 of taxation and finance. Such exemption shall be allowed on the consid-
42 eration of the conveyance of improved real property or an interest ther-
43 ein. The exemption granted pursuant to the provisions of this subdivi-
44 sion shall only apply to conveyances for residential property where the
45 consideration is two million dollars or less.

46 § 1580. Credit. A grantee shall be allowed a credit against the tax
47 due on a conveyance of real property to the extent tax was paid by such
48 grantee on a prior creation of a leasehold of all or a portion of the
49 same real property or on the granting of an option or contract to
50 purchase all or a portion of the same real property by such grantee.
51 Such credit shall be computed by multiplying the tax paid on the
52 creation of the leasehold or on the granting of the option or contract
53 by a fraction, the numerator of which is the value of the consideration
54 used to compute such tax paid which is not yet due to such grantor on
55 the date of the subsequent conveyance (and which such grantor will not

1 be entitled to receive after such date), and the denominator of which is
2 the total value of the consideration used to compute such tax paid.

3 § 1581. Cooperative housing corporation transfers. 1. Notwithstanding
4 the definition of "controlling interest" contained in subdivision two of
5 section fifteen hundred seventy-five of this article or anything to the
6 contrary contained in subdivision five of section fifteen hundred seven-
7 ty-five of this article, the tax imposed pursuant to this article shall
8 apply to (a) the original conveyance of shares of stock in a cooperative
9 housing corporation in connection with the grant or transfer of a
10 proprietary leasehold by the cooperative corporation or cooperative plan
11 sponsor, and (b) the subsequent conveyance of such stock in a cooper-
12 ative housing corporation in connection with the grant or transfer of a
13 proprietary leasehold by the owner thereof. With respect to any such
14 subsequent conveyance where the property is an individual residential
15 unit, the consideration for the interest conveyed shall exclude the
16 value of any liens on certificates of stock or other evidences of an
17 ownership interest in and a proprietary lease from a corporation or
18 partnership formed for the purpose of cooperative ownership of residen-
19 tial interest in real estate remaining thereon at the time of convey-
20 ance. In determining the tax on a conveyance described in paragraph (a)
21 of this subdivision, a credit shall be allowed for a proportionate part
22 of the amount of any tax paid upon the conveyance to the cooperative
23 housing corporation of the real property comprising the cooperative
24 dwelling or dwellings to the extent that such conveyance effectuated a
25 mere change of identity or form of ownership of such property and not a
26 change in the beneficial ownership of such property. The amount of the
27 credit shall be determined by multiplying the amount of tax paid upon
28 the conveyance to the cooperative housing corporation by a percentage
29 representing the extent to which such conveyance effectuated a mere
30 change of identity or form of ownership and not a change in the benefi-
31 cial ownership of such property, and then multiplying the resulting
32 product by a fraction, the numerator of which shall be the number of
33 shares of stock conveyed in a transaction described in paragraph (a) of
34 this subdivision, and the denominator of which shall be the total number
35 of shares of stock of the cooperative housing corporation, including any
36 stock held by the corporation. In no event, however, shall such credit
37 reduce the tax, on a conveyance described in paragraph (a) of this
38 subdivision, below zero, nor shall any such credit be allowed for a tax
39 paid more than twenty-four months prior to the date on which occurs the
40 first in a series of conveyances of shares of stock in an offering of
41 cooperative housing corporation shares described in paragraph (a) of
42 this subdivision.

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

54 § 1582. Designation of agents. The treasurer is authorized to design-
55 ate the recording officer to act as the treasurer's agent for purposes
56 of collecting the tax authorized by this article. The treasurer shall

1 provide for the manner in which such person may be designated as the
2 treasurer's agent subject to such terms and conditions as the treasurer
3 shall prescribe. The real estate transfer tax shall be paid to such
4 agent as provided in section fifteen hundred seventy-seven of this arti-
5 cle.

6 § 1583. Liability of recording officer. A recording officer shall not
7 be liable for any inaccuracy in the amount of tax imposed pursuant to
8 this article that such officer shall collect so long as such officer
9 shall compute and collect such tax on the amount of consideration or the
10 value of the interest conveyed as such amounts are provided to such
11 officer by the person paying the tax.

12 § 1584. Deposit and disposition of revenue. 1. All taxes, penalties
13 and interest imposed by the city or town under the authority of section
14 fifteen hundred seventy-six of this article, which are collected by the
15 treasurer or such treasurer's agents, shall be deposited in a single
16 trust fund for the city or town and shall be kept in trust and separate
17 and apart from all other monies in possession of the treasurer. Moneys
18 in such fund shall be deposited and secured in the manner provided by
19 section ten of the general municipal law. Pending expenditure from such
20 fund, moneys therein may be invested in the manner provided in section
21 eleven of the general municipal law. Any interest earned or capital gain
22 realized on the moneys so deposited or invested shall accrue to and
23 become part of such fund.

24 2. The treasurer shall retain such amount as they may determine to be
25 necessary for refunds with respect to the tax imposed by the city or
26 town, under the authority of section fifteen hundred seventy-six of this
27 article, out of which the treasurer shall pay any refunds of such taxes
28 to those taxpayers entitled to a refund pursuant to the provisions of
29 this article.

30 3. The treasurer, after reserving such refunds, shall on or before the
31 twelfth day of each month pay to the city comptroller or the town super-
32 visor the taxes, penalties and interest imposed by the city or town
33 under the authority of section fifteen hundred seventy-six of this arti-
34 cle, collected by the treasurer, pursuant to this article during the
35 next preceding calendar month. The amount so payable shall be certified
36 to the city comptroller or the town supervisor by the treasurer, who
37 shall not be held liable for any inaccuracy in such certification.
38 Provided, however, any such certification may be based on such informa-
39 tion as may be available to the treasurer at the time such certification
40 must be made under this section. Where the amount so paid over to the
41 city or town in any such distribution is more or less than the amount
42 due to the city or town, the amount of the overpayment or underpayment
43 shall be certified to the city comptroller or the town supervisor by the
44 treasurer, who shall not be held liable for any inaccuracy in such
45 certification. The amount of the overpayment or underpayment shall be so
46 certified to the city comptroller or the town supervisor as soon after
47 the discovery of the overpayment or underpayment as reasonably possible
48 and subsequent payments and distributions by the treasurer to such city
49 or town shall be adjusted by subtracting the amount of any such overpay-
50 ment from or by adding the amount of any such underpayment to such
51 number of subsequent payments and distributions as the treasurer and
52 city comptroller or town supervisor shall consider reasonable in view of
53 the overpayment or underpayment and all other facts and circumstances.

54 4. All monies received from the treasurer shall be deposited in the
55 appropriate fund of the city or town, pursuant to section six-w of the
56 general municipal law.

1 § 1585. Judicial review. 1. Any final determination of the amount of
2 any tax payable under section fifteen hundred seventy-eight of this
3 article shall be reviewable for error, illegality or unconstitutionality
4 or any other reason whatsoever by a proceeding under article seventy-
5 eight of the civil practice law and rules if application therefor is
6 made to the supreme court within four months after the giving of the
7 notice of such final determination, provided, however, that any such
8 proceeding under article seventy-eight of the civil practice law and
9 rules shall not be instituted unless (a) the amount of any tax sought to
10 be reviewed, with such interest and penalties thereon as may be provided
11 for by local law shall be first deposited and there is filed an under-
12 taking, issued by a surety company authorized to transact business in
13 this state and approved by the state superintendent of insurance as to
14 solvency and responsibility, in such amount as a justice of the supreme
15 court shall approve to the effect that if such proceeding be dismissed
16 or the tax confirmed the petitioner will pay all costs and charges which
17 may accrue in the prosecution of such proceeding or (b) at the option of
18 the petitioner, such undertaking may be in a sum sufficient to cover the
19 taxes, interest and penalties stated in such determination, plus the
20 costs and charges which may accrue against it in the prosecution of the
21 proceeding, in which event the petitioner shall not be required to pay
22 such taxes, interest or penalties as a condition precedent to the appli-
23 cation.

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

38 § 1586. Apportionment. A local law adopted by any city or town, pursu-
39 ant to this article, shall provide for a method of apportionment for
40 determining the amount of tax due whenever the real property or interest
41 therein is situated within and without the city or town.

42 § 1587. Miscellaneous. A local law adopted by any city or town, pursu-
43 ant to this article, may contain such other provisions as the city or
44 town deems necessary for the proper administration of the tax imposed
45 pursuant to this article, including provisions concerning the determi-
46 nation of tax, the imposition of interest on underpayments and overpay-
47 ments and the imposition of civil penalties. Such provisions shall be
48 identical to the corresponding provisions of the real estate transfer
49 tax imposed by article thirty-one of this chapter, so far as such
50 provisions can be made applicable to the tax imposed pursuant to this
51 article.

52 § 1588. Returns to be secret. 1. Except in accordance with proper
53 judicial order or as otherwise provided by law, it shall be unlawful for
54 the treasurer or any officer or employee of the county, city or town,
55 including any person engaged or retained on an independent contract
56 basis, to divulge or make known in any manner the particulars set forth

1 or disclosed in any return required under a local law enacted pursuant
2 to this article. Provided, however, that nothing in this section shall
3 prohibit the recording officer from making a notation on an instrument
4 affecting a conveyance indicating the amount of tax paid. No recorded
5 instrument affecting a conveyance shall be considered a return for
6 purposes of this section.

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

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

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

32 § 1589. Foreclosure proceedings. Where the conveyance consists of a
33 transfer of property made as a result of an order of the court in a
34 foreclosure proceeding ordering the sale of such property, the referee
35 or sheriff effectuating such transfer shall not be liable for any inter-
36 est or penalties that are authorized pursuant to this article or article
37 thirty-seven of this chapter.

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

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