

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 1989**

**No. 58**

Introduced by Council Member DeMarco (By request of the Mayor). Amended June 30, 1989  
(Passed under a Message of Necessity from the Mayor).

**A LOCAL LAW**

**To amend the administrative code of the city of New York, in relation to extending the coverage of the real property transfer tax imposed by chapter 21 of title 11 of such code to certain additional transfers of shares of stock or interests in a real estate cooperative.**

*Be it enacted by the Council as follows:*

Section 1. Paragraph 2 of subdivision b of section 11-2102 of chapter 21 of title 11 of the administrative code of the city of New York, as added by local law number 71 for the year 1986, is amended to read as follows:

(2) Notwithstanding the definition of "controlling interest" contained in paragraph eight of section 11-2101 or anything to the contrary contained in paragraph seven of that section, in the case of any transfer of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold, the tax imposed by this subdivision shall apply to (i) the original transfer of such shares of stock by the cooperative corporation or cooperative plan sponsor, and (ii) [the] any subsequent transfer of such shares of stock by the owner thereof [if such owner held such shares in connection with, incidental to or in furtherance of a trade, business, profession, occupation or commercial activity engaged in or conducted by him or it]. *Notwithstanding any provision of this chapter to the contrary, in the case of a transfer described in clause (ii) of this paragraph which relates to an individual residential unit, the consideration for such transfer shall not include any portion of the unpaid principal of any mortgage on the real property of the cooperative housing corporation.* In determining the tax on a transfer described in clause (i) of this paragraph, a credit shall be allowed for a proportionate part of the amount of any tax paid upon the conveyance to the cooperative housing corporation of the land and building or buildings comprising the cooperative dwelling or dwellings. Such proportionate part shall be the amount determined by multiplying the amount of tax paid upon the conveyance to the cooperative housing corporation by a fraction, the numerator [for] of which shall be the number of shares of stock transferred in a transaction described in clause (i) and the denominator of which shall be the total number of outstanding shares of stock of the cooperative housing corporation (including any stock held by the corporation). In no event, however, shall such credit reduce the tax on a transfer described in clause (i) below zero, nor shall any such credit be allowed for any tax paid more than twenty-four months prior to the date on which occurs the first in a series of transfers of shares of stock in an offering of cooperative housing corporation shares described in clause (i), *For purposes of this paragraph, the term "cooperative housing corporation" shall not include a housing company organized and operating pursuant to the*

*provisions of article two, four, five or eleven of the private housing finance law.*

§2. Subdivision b of section 11-2102 of chapter 21 of title 11 of such code is amended by adding a new paragraph 3 to read as follows:

*(3) Notwithstanding the definition of "controlling interest" contained in paragraph eight of section 11-2101 or anything to the contrary contained in paragraph seven of that section, in the case of a corporation (other than a cooperative housing corporation), partnership, association, trust or other entity formed for the purpose of cooperative ownership of real property, the tax imposed by this subdivision shall apply to each transfer of shares of stock in such corporation, interest in such partnership, association or other entity or beneficial interest in such trust, in connection with the grant or transfer of a proprietary leasehold. Notwithstanding any provision of this chapter to the contrary, in the case of a transfer described in this paragraph which relates to an individual residential unit (other than the original transfer of such a unit by the cooperative entity or cooperative plan sponsor), the consideration for such transfer shall not include any portion of the unpaid principal of any mortgage on the real property of such corporation, partnership, association, trust or other entity. Notwithstanding any other provision of law to the contrary, all revenues arising from the tax imposed pursuant to this paragraph shall be credited to and deposited in the general fund of the city, but no part of such revenues may be expended unless appropriated in the annual budget of the city.*

§3. Section 11-2105 of chapter 21 of title 11 of such code is amended by adding a new subdivision (g) to read as follows:

*(g) Every cooperative housing corporation shall be required to file an information return with the commissioner of finance by July fifteenth of each year covering the preceding period of January first through June thirtieth and by January fifteenth of each year covering the preceding period of July first through December thirty-first provided, however, that for the period from January first through June thirtieth, nineteen hundred eighty-nine, such information return shall be filed by July thirty-first, nineteen hundred eighty-nine. The return shall contain such information regarding the transfer of shares of stock in the cooperative housing corporation as the commissioner may deem necessary, including but not limited to, the names, addresses and employer identification numbers or social security numbers of the grantor and the grantee, the number of shares transferred, the date of the transfer and the consideration paid for such transfer. The commissioner of finance may enter into an agreement with the commissioner of taxation and finance of the state of New York to provide that a single information return may be filed for purposes of the tax imposed by this chapter and the real estate transfer tax imposed by article thirty-one of the tax law.*

§4. Section 11-2114 of chapter 21 of title 11 of such code is amended by adding a new subdivision (i) to read as follows:

*(i) Failure to file information return. If a cooperative housing corporation fails to file an information return required under subdivision (g) of section 11-2105 of this chapter on or before the prescribed date (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be imposed on such cooperative housing corporation a penalty of one hundred dollars for each such failure.*

§5. If any item, clause, sentence, subparagraph, subdivision, section or other part of this local law, or the application thereof to any person or circumstances shall be held to be invalid, such holding shall not affect, impair or invalidate the remainder of this local law, or the application of such section or part of a section held invalid to any other person or circumstances, but shall be confined in its operation to the item, clause, sentence, subparagraph, subdivision, section or other part of this local law directly involved in such holding, or to the person and

circumstances therein involved.

§6. This local law shall take effect immediately, but in no event earlier than the effective date of a chapter of the laws of 1989 relating, in part, to enabling a city of one million or more to impose real property transfer taxes on certain transactions involving real estate cooperatives, as proposed in legislative bill numbers S.6401 and A.8835, provided, however, that:

(a) the amendments made by sections one and two of this local law shall apply to transfers made on or after August 1, 1989 or the effective date of this local law, whichever is later, other than a transfer made pursuant to a written contract entered into prior to the effective date of this local law, provided that the date of execution of such contract is confirmed by independent evidence, such as recording of the contract, payment of a deposit or other facts and circumstances as determined by the commissioner of finance of the city of New York; and

(b) sections three and four of this local law shall apply to information returns for semiannual periods beginning on or after January 1, 1989, provided that, notwithstanding anything to the contrary, if the effective date of this local law falls after July 17, 1989, the information return required to be filed for the period from January 1 through June 30, 1989 shall be deemed to be timely filed if it is filed no later than the fifteenth day following such effective date.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on June 30, 1989, and approved by the Mayor on July 25, 1989.

CARLOS CUEVAS, City Clerk, Clerk of the Council.

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW §27

Pursuant to the provisions of Municipal Home Rule Law §27, I hereby certify that the enclosed local law (Local Law 58 of 1989, Council Int. No. 1273-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on June 30, 1989:  
32 for, 0 against

Was approved by the Mayor on July 25, 1989.

Was returned to the City Clerk on July 30, 1989.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel