

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 1995**

---

**No. 35**

---

Introduced by Council Members Berman and Millard (by the request of the Mayor); also Council Members Leffler and Ognibene.

**A LOCAL LAW**

**In relation to the sale of delinquent real estate tax receivables in fiscal years 1995 and 1996.**

*Be it enacted by the Council as follows:*

**Section 1. Legislative Intent.** The council acknowledges that the city's fiscal year 1995 budget contemplates the sale of the right to receive delinquent real estate taxes pursuant to the provisions of section 99-s, general municipal law, which permits the city, acting through its commissioner of finance, to sell any portion of or all its interest in any or all of the city's delinquent real estate tax receivables, pursuant to authorization by the council. The council further acknowledges that the commissioner of finance has received a proposal for a negotiated sale of such receivables, pursuant to the provisions of section 10, chapter 261, laws of New York, 1993. The council acknowledges that a sale of such receivables under the circumstances described below will enable the city to achieve the public purpose of accelerating the city's receipt of payments on account of its real estate taxes. The council desires to authorize the sale of delinquent real estate tax receivables for fiscal year 1995 in the manner set forth below.

The council further acknowledges the desire of the city of New York to consider a sale or transfer of its delinquent real estate tax receivables, including any penalty or interest thereon, in fiscal year 1996, pursuant to the provisions of said section 99-s. In fiscal year 1996, said section 99-s requires such delinquent real estate tax receivables to be sold at public sale to the bidder offering the highest total return to the city. The council desires to articulate the commencement of the process for a possible public sale of delinquent real estate tax receivables in fiscal year 1996, pursuant to the provisions of said section 99-s.

**§2. Sale of Delinquent Real Estate Tax Receivables in Fiscal Year 1995.** (a) The commissioner of finance is authorized to negotiate to sell, in one or more transactions, by June 30, 1995, to the Asset Securitization Cooperative Corporation (the "Corporation"), all or any portion of the city's delinquent real estate taxes in existence no later than June 30, 1995, including interest and penalties accrued thereon (the "Receivables") and collections thereon from the date of such sale to no later than the third anniversary of the date of such sale, including the interest and penalties to accrue thereon (the "Collections"), for consideration consisting of immediately available funds in the

amount described below in Section 2(c) (the "Purchase Price"); **provided, however**, that the Purchase Price shall be treated as fiscal year 1995 revenues for accounting purposes.

(b) In connection with the sale of the Receivables, the commissioner of finance is authorized to execute and deliver a Receivables Sale Agreement, among the city, as Seller and Collection Agent, the Corporation, as Purchaser, and Canadian Imperial Bank of Commerce, as Servicing Agent (the "Agreement"), in substantially the form submitted to the speaker of the council, together with such changes not adverse to the city or such other changes as may be necessary to provide for the sale of the Receivables and Collections in the manner contemplated hereby, in each case, as the commissioner of finance may determine are necessary and appropriate. Execution of the Agreement by the commissioner of finance shall be conclusive evidence of such determination.

(c) The Purchase Price shall consist of immediately available funds in an amount not lower than \$175,000,000; **provided however**, an independent financial consultant to the city shall determine, on the date of sale of the Receivables, that the Purchase Price is reasonable, in the context of any financing the Corporation undertakes to finance the purchase of the Receivables pursuant to its commercial paper program and under the circumstances present in the market at the time said financing takes place. Said advisor shall evidence its determination in a written report which shall also include the cost of such sale to the city including but not limited to initial fixed transaction costs and an estimate of the interest on the financing used by the Corporation to purchase the Receivables (the "Advisor's Report"). The commissioner of finance shall provide for delivery, as soon as practicable after the sale, to the finance committee of the council, of two copies of the Advisor's Report and the transcript of proceedings in connection with such sale.

(d) In connection with execution and delivery of the Agreement, the commissioner of finance shall: (i) evidence his determination that the sale of the Receivables provides maximum available financial benefits consistent with other objectives and requirements of the city and (ii) obtain the state comptroller's approval of the terms and conditions of such sale as required by said section 10.

(e) The Purchase Price shall accrue strictly to the city, and the city's use of such cash portion shall not be restricted by the Corporation.

(f) The city shall treat the transfer of the Receivables and the Collections to the Corporation as a sale pursuant to generally accepted accounting principles.

(g) The city shall not make any payments to the Corporation in connection with the Receivables or the Collections except pursuant to the Agreement.

(h) The city shall mark its appropriate records (which may be in the form of a computer tape, microfiche or other electronic or computer device) so that, from and after the time of sale of the Receivables, the city's records shall indicate the Corporation's absolute ownership of the Receivables.

(i) The city intends that the transfer of the Receivables and the Collections to the Corporation, pursuant to the Agreement and this local law, be a sale and not a secured borrowing.

(j) The Purchase Price, as payments on account of real estate taxes, shall be deposited and retained in the general debt service fund to the extent required by section 9-a of the New York state financial emergency act for the city of New York.

**§3. Further Authorization.** The commissioner of finance is hereby authorized to take such other actions, including the execution of certificates, instruments and other documents, as are necessary and appropriate to effectuate the transaction contemplated by this local law.

**§4. Sufficiency of Authorization.** This local law shall, with said section 99-s and said section 10, constitute full and independent authority for all things herein authorized to be done.

**§5. Further Reports.** The commissioner of finance shall provide for delivery to the finance committee of the council, two copies of the Receivables Activity Report (as defined in the Agreement) on the date such Report is required to be delivered to the Corporation. In addition, as soon as practicable after the reduction of the Investment to zero and the reconveyance of the Purchaser's interest in the remaining Receivables and Collections pursuant to Section 6.1(b) of the Agreement (all as defined in the Agreement), the commissioner of finance shall submit to the committee on finance two copies of a report showing the actual cost of interest on the financing used by the Corporation to purchase the Receivables.

**§6. Sale of Delinquent Real Estate Tax Receivables in Fiscal Year 1996.** In the event revenues from the sale of delinquent real estate tax receivables are included in the city's adopted budget for fiscal year 1996, the commissioner of finance is hereby required to submit to the finance committee of the council, no later than September 30, 1995, a written plan to conduct a proposed public sale of delinquent real estate tax receivables in fiscal year 1996, for subsequent, final authorization by local law of the council pursuant to said section 99-s. The commissioner of finance shall advise and consult with staff of the finance committee of the council during the time of preparation of such materials and until such time as the council authorizes such sale pursuant to said section 99-s.

**§7. Effective Date.** This local law shall take effect immediately.

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 April 12, 1995, and approved by the Mayor on April 21, 1995.

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 35 of 1995, Council Int. No. 543) contains the correct text and:

Received the following vote at the meeting of the New York City Council on April 12, 1995: 47 for, 0 against.

Was approved by the Mayor on April 21, 1995.

Was returned to the City Clerk on April 21, 1995.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel