

RESOLUTION ADOPTING A HOME RULE REQUEST FOR ENACTION AND ADOPTION BY THE NEW YORK STATE ASSEMBLY OF ASSEMBLY BILL A.211 AND ENACTION AND ADOPTION BY THE NEW YORK STATE SENATE OF SENATE BILL S.720 EXTENDING THE AUTHORITY GRANTED ESSEX COUNTY BY THE STATE OF NEW YORK TO ADOPT AND AMEND LOCAL LAWS IMPOSING A TAX OF TWENTY FIVE CENTS (\$.25) FOR EACH ONE HUNDRED DOLLARS (\$100.00) ON EACH REMAINING MAJOR FRACTION THEREOF ON PRINCIPAL DEBT INCURRED BY A MORTGAGE ON REAL PROPERTY SITUATE WITHIN THE COUNTY UNTIL DECEMBER 1, 2021

The following resolution was offered by Supervisor Merrihew, who moved its adoption.

WHEREAS, Assembly Bill A.211 and Senate Bill S.720 have been introduced in the NYS Assembly and NYS Senate respectively, each entitled “An act to amend chapter 327 of the laws of 2006, amending the tax law relating to authorizing the County of Essex to impose an additional mortgage recording tax, in relation to extending the expiration and repeal of such provisions”; and

WHEREAS, the purpose of this legislation is to extend Essex County’s authorization to continue to impose a tax of twenty-five cents (\$.25) per each one hundred dollars (\$100.00) on each remaining major fraction thereof on principal debt incurred by a mortgage on real property situate within the County until December 1, 2021; and

WHEREAS, Essex County needs to adopt a Home Rule Request for such necessary legislation to be considered and enacted.

BE IT RESOLVED, that the Essex County Board of Supervisors hereby adopts a Home Rule Request requesting enactment of Assembly Bill A.211 and Senate Bill No. S.720 authorizing the County of Essex to continue to impose its additional mortgage recording tax and to extend its authority to impose the tax until December 1, 2021, prospectively after the enactment of the law, keeping in mind that the Bill does not give the County authority to retroactively impose and collect this tax starting on December 1st, 2018; and

BE IT FURTHER RESOLVED, that the Essex County Board of Supervisors hereby declares that a necessity exists for the enactment of such legislation as the County cannot presently continue to impose the additional mortgage recording tax after November 30, 2018 unless the State authorizes legislation and continues our authority after November

30, 2018, and, because the revenue received from this mortgage tax is vital and necessary to fund the everyday operations of the County of Essex and to offset the ever increasing budget constraints faced by the County; and

BE IT FURTHER RESOLVED, that the Clerk of this Board be and is hereby authorized and directed to immediately execute all necessary Home Rule Request documents and immediately forward the same to Senator Elizabeth O’C. Little and Assemblyman Daniel Stec.

This resolution was seconded by Supervisor Morrow, and adopted upon a **two-thirds** roll-call vote as follows:

AYES: 3631 votes
NOES: 0 votes
ABSENT: 408 votes (Depo, Tyler)

**RESOLUTION INTRODUCING PROPOSED LOCAL LAW NO. 2
OF 2019 CONTINUING THE IMPOSITION OF THE ADDITIONAL
MORTGAGE TAX IN ESSEX COUNTY**

The following resolution was offered by Supervisor Morrow, who moved its adoption.

BE IT RESOLVED that the Essex County Board of Supervisors hereby introduces proposed Local Law No. 2 of 2019 entitled "Local Law No. 2 of the year 2019 - a local law continuing the imposition of an additional mortgage tax in Essex County" reading and providing as follows:

ESSEX COUNTY LOCAL LAW NO. 2 of 2019

A local law continuing the imposition of an additional mortgage tax in Essex County.

BE IT RESOLVED by the Board of Supervisors of Essex County as follows:

SECTION 1.

Upon the expiration of Local Law No. 4 of 2015, and pursuant to the provisions of Section 253-j of the Tax Law, for the period commencing December 1, 2018, and ending December 1, 2021, unless further extended by local law of the Board of Supervisors, there is hereby imposed in Essex County a tax of twenty-five cents (\$0.25) for each one hundred dollars (\$100.00) and each remaining major fraction thereof of principal debt or obligation which is or under any contingency may be secured at the date of execution thereof, or at any time thereafter, by a mortgage on real property situated within such County and recorded on or after the date upon which such tax takes effect and a tax of twenty-five cents (\$0.25) on such mortgage if the principal debt or obligation which is or by any contingency may be secured by such mortgage is less than one hundred dollars (\$100.00).

SECTION 2.

The taxes imposed under the authority of Section 253-j and this Local Law shall be administered and collected in the same manner as the taxes imposed under subdivision one of section two hundred fifty-three and paragraph (b) of subdivision one of section two hundred fifty-five of the Tax Law. Except as otherwise provided in Section 253-j of the Tax Law, all the provisions of the Tax Law relating to or applicable to the administration and collection of the taxes imposed by such subdivisions shall apply to the taxes imposed under the authority of Section 253-j of the Tax Law with such modifications as may be necessary to adapt such language to the tax so authorized. Such provisions shall apply with the same force and effect as if those provisions had been set forth in full in Section 253-j of the Tax Law except to the extent that any provision is either inconsistent with a provision of Section 253-j of the Tax Law or not relevant to the tax authorized by Section 253-j of the Tax Law. For purposes of Section 253-j of the Tax Law, any reference in the Tax Law to the tax or taxes imposed by the Tax Law shall be deemed to refer to a tax imposed pursuant to Section 253-j of the Tax Law, and any reference to the phrase "within this state" shall be read as "within Essex County", unless a different meaning is clearly required.

SECTION 3.

Where the real property covered by the mortgage subject to the tax imposed pursuant to the authority of *Section 253-j of the Tax Law* is situated in this state but within and without Essex County, the amount of such tax due and payable to Essex County shall be determined in a manner similar to that prescribed in the first undesignated paragraph of section two hundred sixty of the Tax Law which concerns real property situated in two or more counties. Where such property is situated both within Essex County and without the state, the amount due and payable to Essex County shall be determined in the manner prescribed in the second undesignated paragraph of such section two hundred sixty which concerns property situated within and without the state. Where real property is situated within and without Essex County, the recording officer of the jurisdiction in which the mortgage is first recorded shall be required to collect the taxes imposed pursuant to this section.

SECTION 4.

The tax imposed pursuant to the authority of *Section 253-j of the Tax Law* and this Local Law shall be in addition to the taxes imposed by section two hundred fifty-three of the Tax Law.

SECTION 5.

Notwithstanding any provision of the Tax Law to the contrary, the balance of all moneys paid to the recording officer of the County of Essex during each month upon account of the tax imposed pursuant to the authority of *Section 253-j of the Tax Law*, after deducting the necessary expenses of his or her office as provided in section two hundred sixty-two of the Tax Law, except taxes paid upon mortgages which under the provisions of this section or section two hundred sixty of the Tax Law are first to be apportioned by the Commissioner, shall be paid over by such officer on or before the tenth day of each succeeding month to the Treasurer of Essex County and, after the deduction by such Treasurer of the necessary expenses of his or her office provided in section two hundred sixty-two of the Tax Law shall be deposited in the general fund of the County of Essex for expenditure on all expenses incurred by such County for County provisions of the preceding sentence, the tax so imposed and paid upon mortgages covering real property situated in two or more counties, which under the provisions of *Section 253-j of the Tax Law* or section two hundred sixty of the Tax Law are first to be apportioned by the Commissioner of Taxation and Finance, shall be paid over by the recording officer receiving the same as provided by the determination of the Commissioner of Taxation and Finance.

SECTION 6.

The tax imposed pursuant to this Local Law shall be payable on the recording of each mortgage of real property subject to taxes thereunder. Such tax shall be paid to the recording officer of the County in which the real property or any part thereof is situated, except where real property is situated within and without the County, the recording officer of the County in which the mortgage is first recorded shall collect the tax imposed by this local law, as required by the Tax Law. It shall be the duty of such recording officer to indorse upon each mortgage a receipt for the amount of the tax so paid. Any mortgage so endorsed may thereupon or thereafter be recorded by any recording officer and the receipt for such tax indorsed upon each mortgage shall be recorded therewith. The record of such receipt shall be conclusive proof that the amount of tax stated therein has been paid upon such mortgage.

SECTION 7.

This Local Law shall take effect only on the first day of a calendar month, provided a certified copy thereof is mailed by registered or certified mail to the New York State Commissioner of Taxation and Finance at the Commissioner's Office in Albany at least thirty days prior to the date the local law shall take effect. Certified copies of this local law shall also be filed with the County Clerk of the County of Essex, the Secretary of State and the State Comptroller within five (5) days after the local law is duly enacted.

SECTION 8.

This Local Law shall take effect on December 1, 2018, and shall expire and be deemed repealed on December 1, 2021.

AND BE IT FURTHER RESOLVED that the Essex County Board of Supervisors shall hold and conduct a public hearing on the foregoing proposed local law on the 23rd day of January, 2019, at 9:00 a.m. in the forenoon of that day, to hear any and all persons concerning the same.

AND BE IT FURTHER RESOLVED that the Clerk of the Board of Supervisors publish a Notice of such Hearing in the designated County newspapers at least five (5) days prior to said Hearing.

This resolution was duly seconded by Supervisor Politi, and adopted upon a roll-call vote as follows:

AYES:	2613	votes
NOES:	0	votes
ABSENT:	308	votes (Depo, Tyler)