



**Charitable Contributions Program for  
Local Governments and School Districts:  
Information on Drafting Local Laws and  
Resolutions**

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## Overview

The FY 2019 New York State Budget authorizes local governments and school districts to establish charitable gifts reserve funds and, once such funds have been established, to offer real property tax credits to incentivize contributions to these funds. Under the enabling statutes, local charitable gifts reserve funds may receive unrestricted (but voluntary) charitable contributions for the purposes of addressing educational and charitable purposes. It is optional for counties, cities, towns, villages, and school districts to establish a local charitable contributions program.

This guide is intended to provide local governments and school districts outside of New York City information on drafting local laws and resolutions to implement the program. This document is intended to supplement the *Charitable Contributions to Local Government and School Districts Guidance* issued by the Department of Taxation of Finance and the Department of State, which is available online at [https://www.dos.ny.gov/lg/pdf/Charitable Contributions for Local Governments School.pdf](https://www.dos.ny.gov/lg/pdf/Charitable%20Contributions%20for%20Local%20Governments%20School.pdf). Frequently asked questions about the program are also available online at <https://www.ny.gov/local-government-charitable-contributions/charitable-contributions-frequently-asked-questions>.

**The information herein is provided to be helpful and should not be used in substitution of the legal advice that a local government or school district should seek and receive from its attorney.**

## Program Implementation

Local governments and school districts seeking to implement a local charitable contributions program should do so in two steps.

The first step is the establishment of a charitable gifts reserve fund. Each participating local government (county, city, town, village) may implement this first step through the adoption of a local law or resolution. See, General Municipal Law, Article 2, §6-t and §6-u. A school district must adopt a resolution to implement this first step. See, Education Law §1604(44), §1709(12-b), §2590-h(54).

The second step is for the local government or school district to authorize real property tax credits to incentivize contributions to a charitable gifts reserve fund. To implement this step, a participating local government must adopt a local law and a participating school district must adopt a resolution. The tax credit may be valued at a maximum of 95 percent of the value of the contribution, but the local government or school district may choose to further limit the amount or percentage of the credit to be allowed in any given fiscal year. In no instance may the tax credit exceed property taxes owed. See, Real Property Tax Law, Article 9, Title 5, section 980-a.



Part I of this publication addresses the establishment of a reserve fund. Part II addresses how local governments and school districts may make available real property tax credits to incentivize contributions. Part III includes additional tips specific to the drafting of local laws and discusses the components that must be included in local laws (as opposed to resolutions) adopted by a local government.

## Part I: Establish a Charitable Gifts Reserve Fund

Local governments may establish a charitable gifts reserve fund by local law or resolution (see Part III for information regarding additional requirements for local laws). School districts may only do so by resolution. For simplicity, examples below reference “resolution”, but local laws may also use language from these examples.

### ➤ Give the Charitable Gifts Reserve Fund Resolution a Title

#### **Examples of Titles:**

*A resolution establishing a Charitable Gifts Reserve Fund to implement a Local Charitable Contributions Program in the (County/City/Town/Village/School District) of \_\_\_\_\_.*

*A resolution relating to the establishment of a Charitable Gifts Reserve Fund to implement a Local Charitable Contributions Program in the (County/City/Town/Village/School District) of \_\_\_\_\_.*

*A resolution to establish a Charitable Gifts Reserve Fund to implement a Local Charitable Contributions Program in the (County/City/Town/Village/School District) of \_\_\_\_\_.*

### ➤ Establish a county, city, town, village, or school district charitable gifts reserve fund to receive monetary contributions

#### **Two Sample Provisions:**

- 1. The (County/City/Town/Village/School District) of \_\_\_\_\_ hereby establishes a charitable gifts reserve fund, to be known as “The (County/City/Town/Village/School District) of \_\_\_\_\_ Charitable Gifts Reserve Fund” (“Charitable Fund”). Any person or entity can make money contributions to the Charitable Fund. Contributors to the Charitable Fund can impose no restrictions on the use of such contributions.*



2. The (County/City/Town/Village/School District) of \_\_\_\_\_ hereby establishes “The (County/City/Town/Village/School District) of \_\_\_\_\_ Charitable Gifts Reserve Fund” (“Charitable Fund”). Any person or entity can make money contributions to the Charitable Fund. Contributors to the Charitable Fund can impose no restrictions on the use of such contributions.

➤ **Designate a local official to serve as the fund’s administrator**

**Two Sample Provisions:**

1. The Chief Fiscal Officer of the (County/City/Town/Village/School District) of \_\_\_\_\_ is hereby appointed as Administrator of the Charitable Fund. The Administrator is authorized to appoint agents to act on the Administrator’s behalf for purposes of administering the Charitable Fund.
2. The Finance Director of the (County/City/Town/Village/School District) of \_\_\_\_\_ is hereby appointed as Administrator of the Charitable Fund. The Administrator is authorized to appoint agents to act on the Administrator’s behalf for purposes of administering the Charitable Fund.

➤ **The local government or school district may set forth the state requirements governing how contributions to the fund will be deposited, invested, and secured, and may identify the local official who will deposit, invest and secure such contributions**

**Sample Provision:**

*The Administrator of the Charitable Fund is authorized to deposit, invest, and secure all contributions made to the Charitable Fund in the manner required and authorized by General Municipal Law, Article 2, sections 10 and 11. Any interest earned or other gains on deposits to the Charitable Fund, through investments or as otherwise authorized in law, shall become part of such Charitable Fund.*



- **The local government or school district may establish tracking and reporting requirements for the fund**

**Sample Provision:**

*The Administrator shall maintain the following information for the Charitable Fund:*

- A. *The date and amount of each contribution to the Charitable Fund, as well as the name and address of the contributor.*
- B. *The capital gains or losses resulting from the sale of investments of Charitable Fund contributions.*
- C. *The interest or capital gains which have accrued to the Charitable Fund.*
- D. *The amount and date of each withdrawal from the Charitable Fund. The date of the resolution or other regulation of the governing board authorizing such withdrawal should be included.*
- E. *The assets of the Charitable Fund, indicating the cash balance and a schedule of the amounts invested in all obligations, including federal and state.*
- F. *A detailed report of the operation and fiscal condition of such Charitable Fund to the governing board of the (County/City/Town/Village/School District) of \_\_\_\_\_, upon transferring Charitable Fund balances to the General Fund.*

- **Provide for periodic transfer of moneys from a local charitable gifts reserve fund to the general fund**

**Sample Provision:**

*The governing board of the (County/City/Town/Village/School District) of \_\_\_\_\_ may make transfers from the Charitable Fund into the (County/City/Town/Village/School District) of \_\_\_\_\_ General Fund at any time.*

- **Include a date from which contributions to a local government or school district charitable gifts reserve fund may commence**

**Sample Provision:**

*The Charitable Fund may begin accepting contributions on \_\_\_\_\_ (insert date).*



- **Include procedures for the written acknowledgment of the gift made by a contributor to the local government or school district's charitable gifts reserve fund**

The Administrator of the Charitable Fund must provide written acknowledgement of each contribution to the Charitable Fund using the form developed by the Commissioner of Taxation and Finance for this purpose. The form may be found online at [https://www.tax.ny.gov/pdf/current\\_forms/orpts/rp980a\\_acc\\_fill\\_in.pdf](https://www.tax.ny.gov/pdf/current_forms/orpts/rp980a_acc_fill_in.pdf).

**Sample Provision:**

*The Administrator of the Charitable Fund must issue to each contributor to the Charitable Fund a written acknowledgement of such contribution. To satisfy this requirement, the Administrator must use the Acknowledgement of Charitable Contribution Form promulgated by the Commissioner of the New York State Department of Taxation and Finance.*

- **File the local law or resolution that establishes the charitable gifts reserve fund for a local government or school district with the municipal clerk and any other appropriate local officer**
- **After the resolution has been properly filed, a copy may be provided to the tax collecting officer for the participating local government/ school district and to additional parties, such as the administrator(s) of the local government/school district's charitable gifts reserve fund**

See the Charitable Contributions to Local Government and School Districts Guidance at [https://www.dos.ny.gov/lg/pdf/Charitable\\_Contributions\\_for\\_Local\\_Governments\\_School.pdf](https://www.dos.ny.gov/lg/pdf/Charitable_Contributions_for_Local_Governments_School.pdf) for additional information on the administration of a local charitable gifts reserve fund.

## **Part II: Authorize Real Property Tax Credits**

Real property tax credits can be made available to eligible taxpayers who contribute to a charitable gifts reserve fund established by a local government or school district. To make such tax credits available to a charitable fund contributor, a participating local government must adopt a local law and a school district must adopt a resolution.

Any local enactments adopted to authorize such real property tax credits should be distinct from any local law or resolution enacted to establish a charitable gifts reserve fund



for a local government or school district and discussed in Part I of this document.

This Part highlights those provisions that would be common to a local law or resolution, in the case of a school district, adopted to offer a real property tax credit to a local government or school district charitable gifts reserve fund contributor. Local governments should also refer to Part III of this publication for additional drafting tips specific to the local laws and discussion of the necessary components of a properly adopted local law.

➤ **Give the local law or resolution a title to describe its purpose**

**Examples of Titles:**

*A **local law/resolution** authorizing certain real property tax credits for contributions to the Charitable Gifts Reserve Fund for the (County/City/Town/Village/School District) of \_\_\_\_\_ (“Charitable Fund”).*

*A **local law/resolution** to authorize and provide for the administration of real property tax credits for contributions made in an associated credit year to the Charitable Gifts Reserve Fund for the (County/City/Town/Village/School District) of \_\_\_\_\_ (“Charitable Fund”).*

➤ **Establish the level of the real property tax credit that a contributor to a local government or school district’s charitable gifts reserve fund will be entitled to claim against taxes imposed on the contributor’s real property by the local government or school district**

**Two Sample Provisions (the percentages and amounts in each sample are bracketed because each local government or school district should set its own tax credit level):**

1. *A real property taxpayer contributing to the Charitable Fund may claim a credit against the taxes imposed by the (County/City/Town/Village/School District) on the real property owned by the Charitable Fund contributor in the (County/City/Town/Village/School District). The credit allowed to be claimed by each such contributor shall equal the lesser of the property taxes owed or [ninety-five percent (95%)] of the contribution(s) made to the Charitable Fund in the 12-month period ending on the last date a taxpayer can pay property taxes without interest or penalties. In no instance will the amount of any such credit be greater than the amount of real property taxes owed by the taxpayer claiming the credit.*



2. *A real property taxpayer contributing to the Charitable Fund may claim a credit against the taxes imposed by the (County/City/Town/Village/School District) on the real property owned by the Charitable Fund contributor in the (County/City/Town/Village/School District), and the credit allowed to be claimed by each such contributor shall equal the lesser of property taxes owed, [ninety percent (90%)] of the contribution(s) made to the Charitable Fund in the 12-month period ending on the last date a taxpayer can pay property taxes without interest or penalties, or [five thousand dollars (\$5,000)]. In no instance will the amount of any such credit be greater than the amount of real property taxes owed by the taxpayer claiming the credit.*

➤ **Include procedures for a contributor to the local government or school district’s charitable gifts reserve fund to claim the real property tax credit**

The Commissioner of Taxation and Finance has issued a credit claim form that a taxpayer who contributes to a local government or school district charitable gifts reserve fund can use to claim a credit against real property taxes imposed by the local government or school district that established the fund. The form is entitled “Claim for Property Tax Credit for a Charitable Contribution” and it is located online at [https://www.tax.ny.gov/pdf/current\\_forms/orpts/rp980a\\_ccf\\_fill\\_in.pdf](https://www.tax.ny.gov/pdf/current_forms/orpts/rp980a_ccf_fill_in.pdf). This form must be completed by a taxpayer and the completed form must be presented to the collecting officer to claim the associated tax credit.

**Sample Provision:**

*To claim a credit against the taxes imposed by the (County/City/Town/Village/School District) on the real property owned by the contributor in the (County/City/Town/Village/School District), a real property taxpayer who has contributed to the Charitable Fund must complete a Claim for Property Tax Credit for a Charitable Contribution Form promulgated by the Commissioner of the New York State Department of Taxation and Finance.*

*The real property taxpayer must present one copy of the Acknowledgement of Charitable Contribution Form and a completed Claim for Property Tax Credit for a Charitable Contribution Form to the collecting officer for the (County/City/Town/Village/School District).*

*The collecting officer is hereby authorized to reduce the taxpayer’s tax bill for real property owned by the taxpayer that is identified on the Claim for Property Tax Credit for a Charitable Contribution Form and that is located in the (County/City/Town/Village/School District). The amount of the reduction in real property tax to be issued by the collecting officer shall be determined in accordance with section \_\_\_\_\_ of this (**local law/resolution**).*



➤ **Refunds are to be issued when credits are claimed after taxes have been paid**

The local law adopted by a participating local government, or the resolution adopted by a participating school district, should include the procedures to issue refunds of taxes already paid, such as requiring the taxpayer-contributor to a local charitable gifts reserve fund to present an Acknowledgement of Charitable Contributions Form and a completed Claim for Property Tax Credit for a Charitable Contribution Form to the chief fiscal officer or chief financial officer for the local government or school district, who should be further authorized to issue a refund in the amount of the real property tax credit. Such credit shall neither exceed the total amount of property taxes due and paid to the local government nor the maximum percentage (up to a maximum of ninety-five percent (95%)) or amount established in the local law or resolution.

**Sample Provision:**

*The (County/City/Town/Village/School District) Chief Fiscal Officer is hereby authorized to issue a refund of tax paid by a real property taxpayer who contributed to the Charitable Fund in an associated credit year.*

*Such refund may be issued:*

- 1) After the taxpayer presents both the Acknowledgement of Charitable Contribution Form and the Claim for Property Tax Credit for a Charitable Contribution Form to the (County/City/Town/Village/School District) Chief Fiscal Officer (or other person locally authorized to perform such role in the Chief Fiscal Officer's absence or inability to perform this function), within a three-year period beginning immediately after the last day the associated real property taxes were payable to the (County/City/Town/Village/School District) without interest or penalty.*
- 2) After the Chief Fiscal Officer (or other person locally authorized to perform such role in the Chief Fiscal Officer's absence or inability to perform this function) determines that the taxpayer (a) did not receive a credit for such contribution from the (County/City/Town/Village/School District) collecting officer; and (b) paid the taxes for which a credit is claimed.*

*The amount of such refund must be:*

- 1) Determined in accordance with section \_\_\_ of this (**local law/resolution**).*
- 2) Issued without interest, if the total refund is paid to the taxpayer within forty-five days of the receipt of the Acknowledgement of Charitable*



*Contribution Form and the Claim for Property Tax Credit for a Charitable Contribution Form issued to the taxpayer by the (County/City/Town/Village/School District) Charitable Fund Administrator.*

- **Local governments and school districts may authorize the collecting officer to reduce tax bills to reflect real property tax credits for contributions made to the local charitable gifts reserve funds before the tax warrant was issued or as otherwise indicated in the local enactment**

In addition to the processes for claiming the credit and receiving a refund of taxes described above, a local government may (but is not required to) adopt a local law or a school district may (but is not required to) adopt a resolution allowing for the issuance of tax bills that reflect any credits that are claimed before the tax warrant is issued or before such other date as specified in the local law/resolution. The collecting officer for the local government or school district would then be authorized to make any such reduction. However, when the taxes for the local government or school district are collected by a collecting officer employed by a different local government or school district, the governing body of the local government/school district that employs the collecting officer must adopt a resolution agreeing to implement such tax bill reductions.

***Sample Provision:***

*To receive a real property tax credit for contributions made to the Charitable Fund, a taxpayer must present a completed Claim for Property Tax Credit for a Charitable Contribution Form and a corresponding Acknowledgement of Charitable Contribution Form to the collecting officer for the (County/City/Town/Village/School District) of \_\_\_\_\_.*  
*Upon such presentation and in circumstances where a credit has been claimed on or before \_\_\_\_\_ (insert date), the property tax bill shall be adjusted to reflect such credit.*

- **File the local law or resolution that authorizes real property tax credits for contributions to the Charitable Fund with the municipal clerk and any other appropriate local officer**



- **After the local law or resolution has been properly filed, a copy must be provided to the tax collecting officer for the participating local government/school district and may be provided to additional parties, such as the administrator(s) of the local government/school district’s charitable gifts reserve fund**

See the Charitable Contributions to Local Government and School Districts Guidance at [https://www.dos.ny.gov/lq/pdf/Charitable\\_Contributions\\_for\\_Local\\_Governments\\_School.pdf](https://www.dos.ny.gov/lq/pdf/Charitable_Contributions_for_Local_Governments_School.pdf) for additional information on the real property tax credit authorized by Real Property Tax Law § 980-a.

## Part III: Additional Local Law Drafting Tips

Here are some tips for drafting any local law that a local government adopts to implement any of the two steps of the charitable contributions program.

- **The Enacting Clause stipulated in the Municipal Home Rule Law must be included in any Charitable Gifts Reserve Fund Local Law and the Real Property Tax Credits Local Law**

Municipal Home Rule Law §20(2) stipulates the exact style of the enacting clause for all local laws to be enacted by a local government. The enacting clause that every local law must recite is quoted here: “Be it enacted by the (naming the legislative body) of the (name of local government) as follows:” The failure to include an enacting clause in a local law that proposes to adopt a local government’s Charitable Contributions Program could render the local law invalid. (See, *Noonan v. O’Leary*, 206 Misc. 175, 132 N.Y.S. 2d 726 (1954).)

### **Examples of Enacting Clauses:**

*Be it enacted by the board of supervisors of the county of \_\_\_\_\_ as follows:*

*Be it enacted by the legislature of the county of \_\_\_\_\_ as follows:*

*Be it enacted by the common council of the city of \_\_\_\_\_ as follows:*

*Be it enacted by the city council of the city of \_\_\_\_\_ as follows:*



follows:

Be it enacted by the town board of the town of \_\_\_\_\_  
as follows:

Be it enacted by the board of trustees of the village of \_\_\_\_\_  
as follows:

➤ **Local laws must have a Title**

Municipal Home Rule Law §20(3) requires each local law to embrace only one subject. (See, *NYC C.L.A.S.H. v. City of New York*, 147 A.D.3d 97 (1st Dept. 2017), *citing to, Economic Power & Constr. Co. v. City of Buffalo*, 195 N.Y. 286, 296 (N.Y. 1909). In addition, all local laws must have a title that briefly refers to the subject matter of the law.

**Refer to Parts I and II of this publication for title examples.**

➤ **Include an Enabling Clause, and the Clause should cite to the statute(s) and other law(s) authorizing the local law’s adoption**

**Examples of Enabling Clauses (Statutory Authority):**

*This local law is enacted pursuant to Articles 2 and 3 of the Municipal Home Rule Law, Article 2 of the General Municipal Law, and Section 980-a of Title 5 of Article 9 of the Real Property Tax Law.*

*This local law is enacted in accordance with the authorization and procedures in Articles 3 and 4 of the Municipal Home Rule Law, Article 2 of the General Municipal Law, and Section 980-a of Title 5 of Article 9 of the Real Property Tax Law.*

*This local law is enacted by the City of \_\_\_\_\_ in accordance with the authorization and procedures in Articles 2, 3 and 4 of the Municipal Home Rule Law, Article 2 of the General Municipal Law, Section 980-a of Title 5 of Article 9 of the Real Property Tax Law, and [Article/Section] \_\_\_\_\_ of the **City Charter**.*

*This local law is enacted by the City of \_\_\_\_\_ in accordance with the authorization and procedures in Articles 2, 3 and 4 of the Municipal Home Rule Law, Article 2 of the General Municipal Law, Section 980-a of Title 5 of Article 9 of the Real Property Tax Law, and [Article/Section] \_\_\_\_\_*



\_\_\_\_\_ of the **County Charter**.

➤ **Local laws may include a severability clause**

**Sample Provision:**

*If any clause, sentence, paragraph, or section of this local law shall be adjudged by a court of competent jurisdiction to be invalid or otherwise unenforceable, such judgment shall be limited to the clause, sentence, paragraph or section directly before the court and the judgment shall not impair, invalidate, or otherwise render ineffective the lawful application of the remainder of this local law.*

➤ **Local laws will not be effective until filed with the Department of State**

Local Laws adopted by local governments must be filed in the office of the New York State Secretary of State (the Department of State) before they can be effective. (See, Municipal Home Rule Law § 27.) The filing must be made in the manner prescribed by the Secretary of State's regulations for filing local laws. These regulations can be found on the Department of State's website at <https://www.dos.ny.gov/>.

**Sample Provision:**

*This local law shall become effective in accordance with Real Property Tax Law section 980-a and Municipal Home Rule Law section 27(4) immediately upon filing in the office of the Secretary of State, at the Department of State.*

➤ **Remember to comply with all other requirements that may be imposed under any other applicable law, such as a city or county charter or special state law**

Additional information about the drafting of local laws is available in Adopting Local Laws in New York State, a Department of State publication that is located online at [https://www.dos.ny.gov/lq/publications/Adopting\\_Local\\_Laws\\_in\\_New\\_York\\_State.pdf](https://www.dos.ny.gov/lq/publications/Adopting_Local_Laws_in_New_York_State.pdf).