

**LOCAL LAWS
OF
THE CITY OF NEW YORK**

FOR THE YEAR 1999

No. 31

By The Speaker (Council Member Vallone) and Council Member Berman.

A LOCAL LAW

In relation to the sale of the tobacco settlement moneys.

Be it enacted by the Council as follows:

Section 1. Legislative Intent. The Council acknowledges that the fiscal year 2000 budget anticipates the sale of the city's rights to receive the moneys due to the city under a Consent Decree and Final Judgment of the Supreme Court of the State of New York dated December 23, 1998, as the same has been and may be corrected, amended or modified, in the class action entitled *State of New York, et al. v. Philip Morris Incorporated, et al.*, (Index No. 400361/97). In anticipation of this sale, the city has filed, and the Secretary of State has certified, a Certificate of Incorporation creating a not-for-profit local development corporation entitled the Tobacco Settlement Asset Securitization Corporation. The primary purpose of the Corporation will be to purchase the city's rights to receive such tobacco settlement moneys and to issue bonds, from time to time, solely payable from the tobacco settlement moneys. The net proceeds of these bonds, after financing costs and capitalized interest, will be used to pay a portion of the purchase price to the city for the sale of its rights to receive such tobacco settlement moneys. The purchase price shall be used by the city to finance a portion of the city's capital budget as adopted by the Council.

The Council further acknowledges that without the ability to finance the capital budget with proceeds of this transaction, the city will reach the limit of its capacity to enter into new capital commitments, imposed on the city by the state constitution, in fiscal year 2000. Subject to the limitations set forth herein, this local law authorizes the city to negotiate and execute a sale of the city's rights to receive the tobacco settlement moneys to the Corporation and ratifies certain prior actions taken by the city.

§ 2. Definitions. As used or referred to in this local law the following terms shall have the following meanings:

a. "Tobacco Assets" shall mean all rights of the city under a Consent Decree and Final Judgment of the Supreme Court of the State of New York dated December 23, 1998, as the same has been and may be corrected, amended or modified, in the class

action entitled *State of New York, et al. v. Phillip Morris Incorporated, et al.*, (Index No. 400361/97), including the rights to receive the moneys due to the city thereunder.

b. "Corporation" shall mean the Tobacco Settlement Asset Securitization Corporation, a not-for-profit local development corporation formed under section 1411 of the not-for-profit corporation law of the state of New York on March 2, 1999, or another financing vehicle to which the Tobacco Assets may be sold.

c. "Tobacco Bonds" shall mean the bonds, notes and other obligations issued by the Corporation, exclusive of bonds that the Corporation may issue to refund bonds of the Corporation, the net proceeds (after Financing Costs and capitalized interest) of which shall be used by the Corporation to pay a portion of the purchase price to the city for the Tobacco Assets, which purchase price will be used by the city to finance a portion of the city's capital budget as adopted by the council pursuant to the charter of the city of New York.

d. "Tobacco Asset Sale Agreement", or the "Agreement" shall mean the agreement referred to in this local law between the city, as seller of the Tobacco Assets, and the Corporation, as purchaser of the Tobacco Assets. The sale by the city of the Tobacco Assets pursuant to such Agreement shall be a true sale and not a borrowing. Such Agreement may include such representations, warranties and covenants as to the Tobacco Assets, and remedies for their breach, and may be for cash, cash equivalents or such other consideration as the mayor determines to be in the best interest of the city. Such Agreement shall be submitted to the speaker of the council prior to its execution and shall be executed in substantially the form so submitted.

e. "Financing Costs" means all costs, fees, reserves and credit and liquidity enhancements as the Corporation determines to be desirable in issuing, securing and marketing the Tobacco Bonds.

f. "Residual Trust" shall mean the trust established by the Corporation which is entitled to receive the revenues of the Corporation that are in excess of the Corporation's expenses, debt service and contractual obligations to its bondholders.

§ 3. Sale of Tobacco Assets. (a) Subject to the limitations and conditions set forth in subdivision (c) of this section, the mayor is authorized to sell the Tobacco Assets to the Corporation.

(b) In connection with the sale of the Tobacco Assets, the mayor is hereby authorized to execute and deliver the Agreement, in substantially the form such Agreement is submitted to the speaker of the council after the date of the enactment of this local law and prior to its execution.

(c) Such agreement shall provide the following: (i) that the purchase price payable by the Corporation to the city for the Tobacco Assets shall consist of the net proceeds (after Financing Costs and capitalized interest) of all Tobacco Bonds and the beneficial interests in the Residual Trust; (ii) that the cash portion of such purchase price shall be used by the city to finance a portion of the city's capital budget as adopted by the council pursuant to the charter of the city of New York; (iii) that the aggregate principal amount of such Tobacco Bonds shall not exceed three billion five hundred million dollars (\$3,500,000,000); and (iv) that the city shall not make payments of any moneys to the Corporation except pursuant to appropriation.

§ 4. Distributions Subject to Appropriation. Distributions to the city of the Corporation's excess revenues that will be received with respect to the City's beneficial interests in the Residual Trust shall be subject to appropriation through the process required by the New York city charter.

§ 5. Pledge and Agreement. The mayor is authorized to pledge and agree with the Corporation, and the holders of the bonds in which the Corporation has included such pledge and agreement, that the city will not limit or alter the rights of the Corporation to fulfill the terms of its agreements with such holders, or in any way impair the rights and remedies of such holders or the security for such bonds until such bonds, together with the interest thereon and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully paid and discharged.

§ 6. Other Matters. Prior actions taken by the city in connection with the sale of the Tobacco Assets, including but not limited to the incorporation of the Corporation, are hereby ratified.

§ 7. 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 June 7, 1999, and approved by the Mayor on June 28, 1999.

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 31 of 1999, Council Int. No. 563) contains the correct text and:

Received the following vote at the meeting of the New York City Council on June 7, 1999: 50 FOR, 0 AGAINST, 0 NOT VOTING.

Was signed by the Mayor on June 28, 1999.

Was returned to the City Clerk on June 29, 1999.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel