Workforce Housing PILOT Ordinance Update (v6) – Statutory Walkthrough

The v6 amendments are clean-up to eliminate any possible confusion about the statutory basis and term of the exemption. The project and the 120% AMI workforce standard do not change. Each step below tracks the State Housing Development Authority Act, MCL 125.1415a.

Step	MCL cite	What it does	Why it matters
1. Where we started	MCL 125.1415a(1)(b); (4)(b)	The current ordinance grants the workforce housing exemption under (1)(b). Under (4)(b), a (1)(b) exemption lasts only while the workforce covenant is in place, "not to exceed 15 years."	The 15-year statutory cap is why the ordinance relies on optional 5-year extensions. MSHDA financing is a 40-year loan, so the term needed a clearer statutory footing.
2. The added authority	MCL 125.1415a(1)(a); (4)(a) Ord. §§ 77-53(I), 77-57(B)	(1)(a) covers projects owned by a limited dividend housing corporation (or nonprofit or cooperative) and financed with an Authority-aided mortgage. Under (4)(a), the City "may establish by ordinance a different period" for the exemption.	Surnow's ownership entity, Lathrup Village Limited Dividend Housing Association LLC, with MSHDA financing, meets (1)(a). v6 ties the term to the MSHDA mortgage, capped at 40 years total.
3. The catch	MCL 125.1415a(3)(c)	For a (1)(a) project, any portion occupied by people other than "low-income individuals or families" pays a service charge equal to full taxes.	If the City does not define low-income, MSHDA's definition controls, and it is likely below 120% AMI. Workforce units above that line would lose the abatement.
4. The fix	MCL 125.1415a(8)	A municipality may by ordinance define "low-income individuals or families" for its own projects "on the basis of conditions existing in that municipality."	The Legislature gave cities this tool for exactly this purpose. Using it removes any question about (3)(c).
5. Our definition	Ord. § 77-52 (definition of "Low-income individuals or families")	v6 defines low-income as household income not greater than 120% of Area Median Income, the same line the ordinance already uses for workforce housing.	"Low-income" and "workforce" now mean the same thing, so the whole project stays abated. MSHDA requires 29 of the 145 units at 50% AMI; the other 116 rent to households up to 120% AMI.

Bottom line: v6 keeps the deal the Council already approved last summer and puts it on the cleanest statutory footing, so there is no question later about the term or which units are abated.

STATE HOUSING DEVELOPMENT AUTHORITY ACT OF 1966 (EXCERPT)

Act 346 of 1966

125.1415a Exemption of housing project from taxes; filing certified notification of exemption with local assessing authority; annual service charge; amount; duration of exemption; distribution of payments for public services; exceptions; payment of service charge equal to full amount of taxes; reduced housing charges; "low income individuals or families" defined; rules; reimbursement prohibited; additional definitions.

Sec. 15a.

(1) Except as otherwise provided in this section, the following are exempt from all ad valorem property taxes imposed by this state or by any political subdivision, public body, or taxing district in which the project is located:

(a) A housing project owned by a nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, mobile home park corporation, or mobile home park association that is financed with a federally-aided or authority-aided mortgage or advance or grant from the authority.

(b) A housing project that is being developed or rehabilitated for workforce housing that is located in a municipality and is subject to a municipal ordinance that is adopted by the governing body of that municipality to approve a housing project for tax exemption under this subdivision. The approval or denial of a tax exemption under this subdivision must be in accordance with an ordinance or resolution concerning the selection of workforce housing projects that is adopted by the governing body.

(2) The owner of a housing project eligible for an exemption under subsection (1) must file with the local assessing officer a notification of the exemption. The notification must be in an affidavit form as provided by the authority. The owner must first submit the completed affidavit form to the authority for certification by the authority that the project is eligible for the exemption. The owner must then file the certified notification of the exemption with the local assessing officer before November 1 of the year preceding the tax year in which the exemption is to begin. If the housing project is eligible for an exemption under subsection (1)(b), not later than 5 business days after receipt of the certified notification of the exemption, the local assessing officer shall provide a copy of the certified notification of the exemption to the treasurer of the county in which the housing project is located.

(3) The owner of a housing project exempt from taxation under this section shall pay to the municipality in which the project is located an annual service charge for public services in lieu of all taxes. All of the following apply to the amount that an owner must pay as a service charge under this subsection:

(a) The owner must pay an annual service charge in accordance with the following:

(i) Subject to subdivisions (b), (c), (d), and (e), for a new construction project, an amount that is the greater of the tax on the property on which the project is located for the tax year preceding the date on which construction is commenced or 10% of the annual shelter rents obtained from the project.

(ii) Subject to subdivisions (b), (c), (d), and (e), for a rehabilitation project, an amount that is the lesser of the tax on the property on which the project is located for the tax year

preceding the date on which rehabilitation is commenced or 10% of the annual shelter rents obtained from the project.

(b) Subject to subdivisions (c), (d), and (e), a municipality, by ordinance, may establish or change, by any amount it chooses, the service charge paid under subdivision (a) in lieu of taxes by all or any class of housing projects exempt from taxation under this act. However, the service charge must not exceed the amount in taxes that an owner would have otherwise paid if the housing project were not tax exempt.

(c) Notwithstanding subdivision (a), a service charge paid each year in lieu of taxes for that part of a housing project that is tax exempt under subsection (1)(a) and occupied by individuals or families other than low-income individuals or families must be equal to the full amount of the taxes that would be paid on that portion of the housing project if the housing project were not tax exempt. The owner of the housing project must allocate the benefits of any tax exemption granted under this section exclusively to low-income individuals or families or to the maintenance and preservation of the housing project as a safe, decent, and sanitary affordable housing.

(d) Notwithstanding subdivision (a), a service charge paid each year in lieu of taxes for that part of a housing project that is tax exempt under subsection (1)(b) and not used for workforce housing must be equal to the full amount of the taxes that would be paid on that portion of the housing project if the housing project were not tax exempt. The owner of the housing project must allocate the benefits of any tax exemption granted under this section exclusively to workforce housing or to the maintenance and preservation of the housing project as a safe, decent, and sanitary workforce housing.

(e) The annual service charge under subdivision (a) for a housing project that is tax exempt under subsection (1)(b) must be increased by the additional amount if both of the following requirements are met:

(i) Not later than 45 days after the treasurer of the county's receipt of the certified notification of the exemption under subsection (2), the county board of commissioners for that county passes a resolution, by majority vote, that provides that the additional amount must be paid under this subdivision.

(ii) The approval of the resolution described in subparagraph (i) is in accordance with an ordinance or resolution adopted by the county board of commissioners concerning the factors to be considered in applying this subdivision.

(4) The exemption from taxation granted by subsection (1)(a), or approved by a governing body under subsection (1)(b), must remain in effect in accordance with the following:

(a) For a housing project described under subsection (1)(a), for as long as the federally-aided or authority-aided mortgage or advance or grant from the authority is outstanding, but not more than 50 years. The municipality may establish by ordinance a different period of time for the exemption to remain in effect.

(b) For a housing project described in subsection (1)(b), if the housing project remains subject to a covenant running with the land that restricts the use of the housing project to workforce housing, not to exceed 15 years.

(5) Except as otherwise provided in this subsection and subsection (6), any payments for public services received by a municipality in lieu of taxes under this section must be distributed by the municipality to the several units levying the general property tax in the same proportion as prevailed with the general property tax in the previous calendar year. For payments in lieu of taxes collected after June 30, 1994, the distribution to the several units must be made as if the number of mills levied for local school district operating purposes were equal to the number of mills levied for those purposes in 1993 minus the number of mills

levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, for the year for which the distribution is calculated. For tax years after 1993, the amount of payments in lieu of taxes to be distributed to a local school district for operating purposes under this subsection must not be distributed to the local school district but instead must be paid to the state treasury and credited to the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(6) An additional amount received under subsection (3)(e) must be distributed to the county in which the housing project is located.

(7) Notwithstanding subsection (1)(a), a municipality may provide by ordinance that the tax exemption established in subsection (1) does not apply to all or any class of housing projects within its boundaries to which subsection (1)(a) applies. If the municipality makes that provision, the tax exemption established in subsection (1)(a) does not apply to the class of housing projects designated in the ordinance. If the ordinance so provides, the ordinance is effective with respect to housing projects for which an exemption has already been granted on December 31 of the year in which the ordinance is adopted, but not before. A municipality that has adopted an ordinance described in this subsection may repeal that ordinance, and the repeal is effective on the date designated in the repealing ordinance.

(8) For purposes of this section only, "low-income individuals or families" means, with respect to any housing project that is tax exempt, individuals and families eligible to move into that project, as defined by the authority under its rules or a municipality by ordinance. For purposes of this subsection, the authority may promulgate rules to redefine low-income individuals or families or a municipality may by ordinance redefine low-income individuals or families for each municipality on the basis of conditions existing in that municipality.

(9) This state shall not reimburse any unit of government for a tax exemption granted to any housing project under this section.

(10) As used in this section:

(a) "Additional amount" means an amount equal to the difference between the following:

(i) The millage rate levied for operating purposes by the county in which the housing project is located multiplied by the current taxable value of that housing project.

(ii) The amount of the annual service charge paid by the housing project under subsection (3)(a) that is distributed to the county in which the housing project is located under subsection (5).

(b) "Area median income" means that term as defined in section 59.

(c) "Taxable value" means taxable value as calculated under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(d) "Workforce housing" means rental units or other housing options that are reasonably affordable to, and occupied by, a household whose total household income is not greater than 120% of the area median income and published by the United States Department of Housing and Urban Development.

History: Add. 1968, Act 334, Imd. Eff. July 14, 1968 ;-- Am. 1969, Act 109, Imd. Eff. July 24, 1969 ;-- Am. 1979, Act 49, Imd. Eff. July 7, 1979 ;-- Am. 1982, Act 534, Imd. Eff. Dec. 31, 1982 ;-- Am. 1983, Act 217, Imd. Eff. Nov. 16, 1983 ;-- Am. 1994, Act 363, Imd. Eff. Dec. 27, 1994 ;-- Am. 2022, Act 239, Imd. Eff. Dec. 13, 2022

Compiler's Notes: Section 2 of Act No. 363 of the Public Acts of 1994 provides:“The provisions of this amendatory act, providing that the exemption from taxes provided in section 15a of this act be limited to ad valorem property taxes, are curative expressing the original intent of the legislature that the exemption extends only to ad valorem property taxes and does not apply to the other taxes levied under Michigan