Tools To Address Blighted Properties:

Tax Exemption and Mixed Use Incentive Program Act

NEW TOOLS:
REAL ESTATE TAX EXEMPTION FOR BLIGHTED PROPERTIES *ACT 61 OF 2020*

Program Highlights

- Similar to LERTA, but Targeted Specifically for Repair/ Redevelopment of Blighted Properties in Deteriorated Areas
- Provides for Declining Year Tax Exemption on Improvements

NEW TOOLS:
REAL ESTATE TAX EXEMPTION FOR BLIGHTED PROPERTIES *ACT 61 OF 2020*

Program Highlights, cont.

As a Condition of Receiving the Exemption, The Owner Must Agree to:

- ✓Correct all Code Violations *and*
- ✓Pay all Delinquent Taxes (for the subject property and any *other* properties of the owner) *and*
- ✓Increase the Value of the Property by at Least 25%.

NEW TOOLS:
REAL ESTATE TAX EXEMPTION FOR BLIGHTED PROPERTIES *ACT 61 OF 2020*

Program Highlights, cont.

The Exemption is Subject to Recapture if the Owner is Convicted of a Serious Violation of State Law or Property Maintenance Code:

- Within Five Years of the Completion of the Improvements
- After Owner has been Given Six Months to Correct the Violation

**This Only applies to the subject property; not other properties of the owner.*

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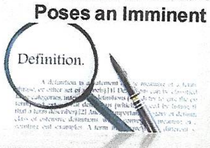
Definition of Serious Violation

A Violation of State Law or Property Maintenance Code That Poses an Imminent Threat to the Health and Safety of:



- **The Dwelling Occupant, *or***
- **Occupants in Surrounding Structures, *or***
- **Passersby**

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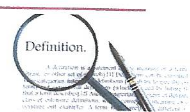
Program Details



Blighted Property Definition

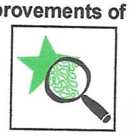
- **Follows Verbatim the Updated Definition in Act 79 of 2019**
- **Substantially Similar to Definition in PA Urban Redevelopment Law**

NEW TOOLS:
REAL ESTATE TAX EXEMPTION FOR BLIGHTED PROPERTIES *ACT 61 OF 2020*

Program Details, cont.

Tax Exemption Applies to Improvements of Various Property Types:

- **Industrial**
- **Commercial**
- **Residential**
- **Mixed-Use**



If the deteriorated area is zoned for mixed use housing and development, work shall incorporate improvements related to <u>all</u> uses in the structures (i.e., residential and commercial).

NEW TOOLS:
REAL ESTATE TAX EXEMPTION FOR BLIGHTED PROPERTIES *ACT 61 OF 2020* *Program Details, cont.*

As with *LERTA*, the Municipality Must:

- Designate a Deteriorated Area (May Include an Impoverished Area) *and*
- Hold One Public Hearing to Allow Public Input on the Boundaries of the Deteriorated Area

NEW TOOLS:
REAL ESTATE TAX EXEMPTION FOR BLIGHTED PROPERTIES *ACT 61 OF 2020* *Program Details, cont.*

- Taxing Authorities (County, Municipality, or School District) may Approve the Exemption Program and Deteriorated Area by Ordinance or Resolution.
- The Ordinance/Resolution Describes the:
  - ✓Deteriorated Area
  - ✓Cost of Improvements Per Unit to be Exempted
  - ✓Schedule of Exemption

NEW TOOLS:
REAL ESTATE TAX EXEMPTION FOR BLIGHTED PROPERTIES *ACT 61 OF 2020* *Program Details, cont.*

Tax Exemption

- May be for the Full Improvement Cost
- May be Capped at a Maximum Dollar Figure
- Has a Ten Year Declining Schedule
  - ✓ Phase-in of Taxes on Improvements
  - ✓ Taxes Paid Prior to Improvements are Still Payable!

NEW TOOLS:

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EXEMPTION SCHEDULE

YEAR	AMOUNT OF IMPROVEMENT OR NEW CONSTRUCTION EXEMPTED
1-3	100%
4	90%
5	75%
6	60%
7	45%
8	30%
9	15%
10	10%

NEW TOOLS:

REAL ESTATE TAX EXEMPTION FOR BLIGHTED PROPERTIES *ACT 61 OF 2020* *Program Details, cont.*

PROCESS

The Person Desiring a Tax Exemption Enters into an Agreement with the Local Taxing Authority. → The Taxing Authority Files a Lien Against the Property in the Amount of Total Taxes to be Exempted during a 10-Year Period. → The Property Owner Completes Improvements and has No Serious Violations by the End of the 5th Year → The Lien is Forgiven

NEW TOOLS:

REAL ESTATE TAX EXEMPTION FOR BLIGHTED PROPERTIES *ACT 61 OF 2020* *Program Details, cont.*

Example: *Assuming Tax Total of $25,000 on Improvements Over 10 Years*

- Portion of Taxes: Municipality=$3,000; County=$2,000; School District=$20,000. Each taxing authority files a lien for the amount of their taxes exempted during the ten year period.
- If the owner is convicted of a serious code violation the third year after the agreement is signed and does not make improvements within six months, the taxing authority may file a judgment for the full amount of the lien and execute on the judgment to force a Sheriff's sale.

NEW TOOLS:
REAL ESTATE TAX EXEMPTION FOR BLIGHTED PROPERTIES *ACT 61 OF 2020*
Program Details, cont.

Query:

For serious code violations after 5 years, what is the remedy?

NEW TOOLS:
REAL ESTATE TAX EXEMPTION FOR BLIGHTED PROPERTIES *ACT 61 OF 2020*
Program Details, cont.

The exemption does *not* terminate on the sale of the property during the ten year period.

Example:

The property is sold three years into the exemption period; the new owner takes title subject to the five year lien and receives an exemption for the balance of the ten year period. If in the forth year the new owner is convicted of a serious code violation and does not make repairs within six months, the lien may be enforced by the taxing authority as indicated in the earlier slide.

NEW TOOLS:
REAL ESTATE TAX EXEMPTION FOR BLIGHTED PROPERTIES *ACT 61 OF 2020*
Program Details, cont.

Persons desiring the exemption must submit an application to the taxing authority that includes outline specifications for improvements, including:

- Materials to be Used for Exterior and Interior Finishes
- A Signed Contractor Estimate
- Preliminary Architectural Drawings or Blueprints
- An Income and Expense Report for Income-Producing Properties

NEW TOOLS:
REAL ESTATE TAX EXEMPTION FOR BLIGHTED PROPERTIES *ACT 61 OF 2020* *Program Details, cont.*

The owner cannot reapply for exemption within fifteen years.

Example:

An exemption is granted in 2021; the tax exemption expires in 2030 but the owner cannot reapply for exemption for new improvements until 2035.

TAX EXEMPTION AND MIXED-USE INCENTIVE PROGRAM ACT - ENACTMENT

Act of Jul. 14, 2020, P.L. 631, No. 61 **Cl. 72**

An Act

Authorizing local taxing authorities to provide for tax exemption incentives for certain deteriorated industrial, commercial, business and residential property and for new construction in deteriorated areas of communities; providing for an exemption schedule; and establishing standards and qualifications.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Tax Exemption and Mixed-Use Incentive Program Act.

Section 2. Construction.

This act shall be construed to authorize local taxing authorities to provide for tax exemption incentives for new construction in deteriorated areas of communities and improvements to certain deteriorated industrial, commercial, business and residential property. In addition, this act shall be construed to allow for mixed-use housing and development in accordance with zoning ordinances within designated areas. This act supplements the act of July 9, 1971 (P.L.206, No.34), known as the Improvement of Deteriorating Real Property or Areas Tax Exemption Act, and the act of December 1, 1977 (P.L.237, No.76), known as the Local Economic Revitalization Tax Assistance Act, which implement section 2(b)(iii) of Article VIII of the Constitution of Pennsylvania.

Section 3. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Adult entertainment." As defined in 68 Pa.C.S. § 5502 (relating to definitions).

"Blighted property." The term includes:

(1) A premises:

(i) ascertained to be a public nuisance due to physical condition or use, regarded as a public nuisance at common law and deemed to be a danger to public health, safety and welfare or public nuisance as regulated by a locally adopted property maintenance code or, if no such code exists, any compatible code enacted by the act of November 10, 1999 (P.L.491, No.45), known as the Pennsylvania Construction Code Act; or

(ii) the condition of which contains an attractive nuisance created by physical condition, use or occupancy, including abandoned water wells, shafts, basements, excavations and unsafe fences or other structures, or which contains an unauthorized entry, unsafe equipment or other safety risk.

(2) A dwelling that has been condemned or otherwise deemed unfit for occupancy or use by the local authority having jurisdiction due to dilapidated, unsanitary, unsafe or vermin-infested condition or that is lacking in the facilities and equipment as required by the Pennsylvania Construction Code Act.

(3) A structure determined by the local authority having jurisdiction to be a fire hazard or otherwise that could easily

catch fire or cause a fire and endanger public health, safety and welfare.

(4) A vacant or unimproved lot or parcel of ground located in a predominantly developed neighborhood that has become a place for the accumulation of trash and debris or haven for rodents and other vermin by reason of neglect or lack of maintenance.

(5) A property that is vacant and has not been rehabilitated within one year from receipt of notice for corrective action as issued by the local authority having jurisdiction, except a property where a valid construction permit is in place.

(6) A vacant or unimproved lot or parcel of ground that is subject to a municipal lien for the cost of demolition of a structure previously located on the property and for which no payments on the lien have been made for a period of 12 months.

(7) A vacant or unimproved lot or parcel of ground on which the total municipal liens for delinquent real estate and property tax or any other type of municipal claim are greater than 150% of the fair market value of the property as established by the board of assessment appeals or other body with legal authority to determine the taxable value of the property.

(8) A property that has been declared abandoned in writing by the owner, including an estate that is in possession of the property.

"Deteriorated area." An area designated by a municipal corporation to consist of blighted property. The term includes an impoverished area.

"Exemption schedule." The tax exemption schedule under section 5.

"Impoverished area." Any area in this Commonwealth which is certified as an impoverished area by the Department of Community and Economic Development and the certification of which is approved by the Governor. Certification shall be made on the basis of Federal census studies and current indices of social and economic conditions.

"Improvement." Repair, construction or reconstruction, including alterations and additions, having the effect of rehabilitating a blighted property so that it becomes habitable or attains higher standards of safety, health, economic use or amenity, or is brought into compliance with laws, ordinances or regulations governing such standards. Ordinary upkeep and maintenance shall not be deemed an improvement.

"Local taxing authority." A county, city, borough, incorporated town, township, institution district or school district having authority to levy real property taxes.

"Mixed-use housing and development." Any urban, suburban, village development or single building that combines residential, commercial, cultural, institutional or industrial uses to provide more efficiency for the community in terms of space, transportation and economic development.

"Municipal corporation." A city, borough, incorporated town or township.

"Property maintenance code." A municipal ordinance which regulates the maintenance or development of real property. The term includes a building code, housing code and public safety code.

"Serious violation." A violation of a State law or a property maintenance code that poses an immediate imminent threat to the health and safety of a dwelling occupant, occupants in surrounding structures or passersby.

Section 4. Deteriorated areas.

(a) Real property tax exemption.--

(1) A local taxing authority may by ordinance or resolution exempt from real property taxation the assessed valuation of improvements to blighted properties and the assessed valuation of new construction within a deteriorated area in the amounts and in accordance with the provisions and limitations specified in this act.

(2) If a deteriorated area is zoned for mixed-use housing and development, improvements shall incorporate mixed-use housing and development that benefit the efficiency and economy of the community.

(3) The ordinance or resolution shall specify a description of each deteriorated area, as well as the cost of improvements per unit to be exempted, and the schedule or taxes exempted as provided in this act.

(b) Boundaries.--Prior to the adoption of the ordinance or resolution authorizing the granting of tax exemptions, the municipal corporation must affix the boundaries of the deteriorated area, wholly or partially located within its jurisdiction, if any.

(c) Public hearing.--

(1) At least one public hearing shall be held by the municipal corporation for the purpose of determining the boundaries of a deteriorated area.

(2) At the public hearing the local taxing authorities, planning commission or redevelopment authority and other public and private agencies and individuals, knowledgeable and interested in the improvement of deteriorated areas, shall present their recommendations concerning the location of boundaries of a deteriorated area for the guidance of the municipal corporation. The recommendations shall take into account the criteria required to establish an impoverished area or blighted property.

(3) The public hearing shall be held in accordance with 65 Pa.C.S. Ch. 7 (relating to open meetings).

(d) Adjacent property inclusions.--Property adjacent to a deteriorated area may be included within the deteriorated area if the local taxing authority determines that new construction on the property would encourage, enhance or accelerate improvement of the blighted properties within the deteriorated area.

(e) Municipal cooperation.--

(1) Two or more municipal corporations may join together for the purpose of determining the boundaries of a deteriorated area and establishing the uniform maximum cost per unit, and the municipal corporations shall cooperate fully with each other for the purpose of implementing this act.

(2) The local taxing authorities may, by implementing ordinances or resolutions, agree to adopt tax-exemption schedules contingent upon the similar adoption by an adjacent local taxing authority or by a local taxing authority with mutual jurisdiction, within the limitations provided under this act.

(f) Rescinding blighted area designation.--A local taxing authority may rescind an ordinance or resolution adopted under subsection (a) if the local taxing authority determines that the tax exemption in the deteriorated area within the boundaries established under subsection (b) has accomplished the goal of revitalizing the deteriorated area. Property granted tax exemption within the boundaries of the deteriorated area prior to the ordinance or resolution being rescinded shall continue to receive the tax exemption granted until the tax exemption is terminated under section 5(b).

Section 5. Exemption schedule.

(a) General rule.--A local taxing authority granting a tax exemption under this act may provide for tax exemption on the assessment attributable to the actual cost of new construction or improvements or up to any maximum cost uniformly established by the municipal corporation. The maximum cost shall uniformly apply to all eligible blighted property in the deteriorated area within the local taxing authority's jurisdiction.

(b) Schedule.--Whether or not the assessment eligible for exemption is based upon actual cost or a maximum cost, the actual amount of taxes exempted shall be in accordance with the following:

(1) For the first, second and third years for which new construction or improvements would otherwise be taxable, 100% of the eligible assessment shall be exempted.

(2) For the fourth year for which new construction or improvements would otherwise be taxable, 90% of the eligible assessment shall be exempted.

(3) For the fifth year for which new construction or improvements would otherwise be taxable, 75% of the eligible assessment shall be exempted.

(4) For the sixth year for which new construction or improvements would otherwise be taxable, 60% of the eligible assessment shall be exempted.

(5) For the seventh year for which new construction or improvements would otherwise be taxable, 45% of the eligible assessment shall be exempted.

(6) For the eighth year for which new construction or improvements would otherwise be taxable, 30% of the eligible assessment shall be exempted.

(7) For the ninth year for which new construction or improvements would otherwise be taxable, 15% of the eligible assessment shall be exempted.

(8) For the tenth year for which new construction or improvements would otherwise be taxable, 10% of the eligible assessment shall be exempted.

(9) After the tenth year, the exemption shall terminate.

(c) Limitation.--The exemption from taxes shall be limited to the additional assessment valuation attributable to the actual costs of new construction or improvements to blighted property or not in excess of the maximum cost per unit established by a municipal corporation.

(d) Sale or exchange.--The exemption from taxes shall be upon the property exempted and shall not terminate upon the sale or exchange of the property.

(e) Estimate.--A local taxing authority shall provide upon request an estimate of the amount of assessment exempted for each eligible property based on the exemption schedule under subsection (b).

(f) Repayment.--

(1) A local taxing authority shall be entitled to a return of its proportional share of taxes exempted under the provisions of this act if, within five years following completion of the new construction or improvements, there exists on the property a serious violation of a State law or a property maintenance code and the owner has taken no substantial steps to correct the violation within six months following notification of the violation and for which fines or other penalties or a judgment to abate or correct were imposed by a magisterial district judge or municipal court, or a judgment at law or in equity was imposed by a court of common pleas.

(2) At the time the agreement is entered into between a local taxing authority and the person who desires tax

exemption, if the person has completed all requirements under section 6, the local taxing authorities shall file a lien against the tax-exempt properties at the rate of the estimated amount of assessment under subsection (b). The lien shall be forgiven by the local taxing authority at the end of the fifth year following the completion of the new construction or improvements if there have been no serious violations against the property that have not been corrected. The lien on the property shall transfer under subsection (d) in cases of sale or exchange of the property.

Section 6. Procedure for obtaining exemption incentives.

(a) Notification.--A person desiring tax exemption authorized by an ordinance or resolution adopted under this act shall notify the local taxing authority granting the exemption in writing on an application form provided by the local taxing authority, submitted at the time the person secures the building permit or, if no building permit or other notification of new construction or improvement is required, at the time the person commences construction. The application shall include the following information:

(1) Statement of tax obligations, signed by the applicant and the local taxing authority and notarized.

(2) Outline of specifications for the new construction or improvement, indicating with as much specificity as practicable the materials to be used for exterior and interior finishes.

(3) An itemized cost estimate for the new construction or improvement. The itemization must:

(i) Be on contractor letterhead.

(ii) Indicate the property address of the project.

(iii) Be signed by the applicant.

(4) Preliminary architectural drawings or blueprints for the new construction or improvement.

(5) A recent appraisal of the property, if available.

(6) An applicable building permit application or building permit.

(7) An income and expense report for the property, which income and expense report should be submitted directly to the county assessment office in order to protect the confidentiality of the information.

(8) The final decision of the zoning authority or other regulatory agency granting relief, if applicable.

(9) The signature of the applicant and the date of signing.

(b) Estimate.--The amount of assessment deemed eligible for tax exemption under subsection (c) shall be available for public inspection and copying so that any subsequent purchaser is informed of the amount of taxes to be paid after the 10-year exemption period.

(c) County assessment office.--

(1) A copy of the exemption request shall be forwarded to the county assessment office. The county assessment office shall, after completion of the new construction or improvement, assess separately the new construction or improvement and calculate the amounts of the assessment eligible for tax exemption in accordance with the limits established by the local taxing authorities and notify the taxpayer and the local taxing authorities of the reassessment and amounts of the assessment eligible for exemption.

(2) Appeals from the reassessment and the amounts eligible for the exemption may be taken by the taxpayer or the local taxing authorities as provided by law.

(d) Amendment of ordinance.--The cost of new construction or improvements to be exempted and the schedule of taxes exempted existing at the time of the initial request for tax exemption shall be applicable to that exemption request, and subsequent amendment to the ordinance, if any, shall not apply to requests initiated prior to adoption of the amendment.

Section 7. Eligibility requirements.

(a) General rule.--The completed new construction or improvement must:

(1) Conform to zoning ordinance requirements. However, if mixed-use development is permitted in a designated deteriorated area, any improvement must meet any applicable mixed-use housing and development standards.

(2) Increase the value of the property by at least 25%.

(3) Correct all code violations, if applicable.

(b) Ineligibility.--A property is ineligible for tax exemption under section 5(a) if:

(1) The property receives other property tax abatement or exemption incentives for new construction or improvement.

(2) The property receives tax relief through a State program, except as provided in subsection (d).

(3) The property owner or developer is delinquent on property taxes related to the subject property, unless the delinquent taxes are paid prior to construction or payment of delinquent taxes has been arranged with the local taxing authority in accordance with an installment plan.

(4) The property owner has a legal or equitable interest in other property for which property taxes are delinquent, unless the delinquent taxes are paid prior to construction or payment of delinquent taxes has been arranged with the local taxing authority in accordance with an installment plan.

(5) New construction or improvement has commenced prior to filing an application under section 6.

(6) The property includes an improvement under subsection (c) that poses a health or safety risk to an individual residing above the first floor.

(c) Restriction.--For an improvement under this act that involves mixed-use housing and development, certain establishments may not be sited on the first floor for health and safety reasons. The establishments include, but are not limited to, the following:

(1) Gas stations or automobile service stations.

(2) Drive-through establishments.

(3) Adult entertainment establishments.

(4) Storage trailers and outdoor storage of goods associated with commercial use unless use of the structure is necessary during construction.

(5) Junkyards.

(6) Recycling service centers.

(7) Animal hospitals and animal sales.

(8) Heavy manufacturing.

(9) Establishments that utilize biohazards.

(10) Establishments that sell firearms and other weapons, unless the occupant is the owner of the establishment.

(d) Exception.--The amount of assessment eligible for exemption under this act shall be offset by the amount of property tax rebate received under Chapter 13 of the act of June 27, 2006 (1st Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief Act.

(e) Limitations.--The property qualifying for and receiving a tax exemption under the program shall be ineligible for or receive an additional tax exemption under this program for a minimum of 15 years from the date the property received a tax exemption under the program.

(f) Prohibitions.--For the period of time that a property receives a tax exemption under the program, no purchase or sale of the property or any portion thereof shall be structured in a manner that excludes or exempts the transaction from a realty transfer tax due to a taxing authority that would otherwise not be excluded or exempt, except in the following cases:

(1) a sheriff sale or tax claim bureau sale;

(2) a corrective deed;

(3) a transfer by the mortgagor to the holder of a bona fide mortgage in default in lieu of a foreclosure;

(4) a transfer to a judicial sale in which the successful bidder is the bona fide holder of a mortgage; or

(5) any other transaction excluded from the realty transfer tax under Article XI-C of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

Section 8. Effective date.

This act shall take effect in 60 days.