

## Legislation Text

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Amending Title 19 of The Philadelphia Code, entitled “Finance, Taxes, and Collections,” and Title 21 of The Philadelphia Code, entitled “Miscellaneous,” by authorizing access to legal representation for certain owners of blighted and deteriorated dwellings and providing for tax forgiveness and exemptions for improvements to certain deteriorated areas and dwellings to incentivize the creation and improvement of affordable housing units, all under certain terms and conditions.

*THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:*

### SECTION 1.

The Council of the City of Philadelphia makes the following legislative findings:

1. In 2008, Governor Ed Rendell signed Act 135, the Abandoned and Blighted Property Conservatorship Act, into law, allowing for neighbors, non-profits, and other affected parties to petition the Court of Common Pleas to appoint a conservator to remediate the blight.
2. In 2014, the Pennsylvania General Assembly amended Act 135 to allow for a conservator to have their legal fees and remediation costs reimbursed for successfully remediating a blighted property and allowed for 20% of the net profit of the out-sale to be awarded to the conservator.
3. Since that time, the use of Act 135 to remediate blight in the City of Philadelphia has not been without challenges, and concerns about the predatory nature of petitions, conservators, and the effect on the surrounding community.
4. While the City of Philadelphia can not amend Act 135, it can utilize the Act to incentivize the development of affordable housing.
5. The Act 135 Diversion Program will provide funding for legal counsel for a natural person, and leverage debt owed to the City paired with an affordable housing unit tax exemption to incentivize petitioners to remediate blighted and abandoned properties into affordable housing units.

SECTION 2. Title 19 of the Philadelphia Code shall be amended to read as follows:

### TITLE 19. FINANCE, TAXES, AND COLLECTIONS

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#### *CHAPTER 19-4600. THE ACT 135 DIVERSION PROGRAM*

*§ 19-4501 Delinquent Taxes.*

*(1) Definitions.*

*(a) Delinquent Taxes. Any past due municipal real estate tax owed to the City of Philadelphia under 56 P.S. 8561 et seq., including the penalties and interest owed thereon.*

*(b) Covered Proceeding. Any judicial or administrative proceeding brought under Act 135, 2008 P.L. 1672, No. 135, including a petition brought in the First Judicial District Orphans' Court Division, under 20 Pa.C.S. 3546.*

*(c) Covered Property. Any real property subject to a covered proceeding in the First Judicial District.*

*(2) Forgiveness of Delinquent Taxes.*

*(a) Any Delinquent Taxes owed shall be forgiven by the Department of Revenue if a Covered Property is successfully remediated as an affordable housing unit as defined in section 19-4502 of the Philadelphia Code, in a covered proceeding, occurring after the passage of this Bill.*

*(1) If a property receives tax forgiveness and at any time violates the affordability requirements outlined in section 19-4502, it shall owe a repayment of forgiven taxes for that year, proportional to the share of income made beyond the affordability limit.*

*(b) The amount of Delinquent Taxes owed shall be determined pursuant to regulations promulgated by the Department of Revenue. It is not Council's intention to forgive all Delinquent Taxes in every Covered Proceeding.*

*(c) The Department of Revenue shall be empowered to promulgate regulations to effectuate any portion of this Bill.*

*(d) If any provision of this Ordinance or application thereof to any persons or circumstances is judged invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions or applications of the Ordinance that can be given effect without the invalidated provision or application and to this end the provisions of the Ordinance are declared severable.*

*§ 19-4502 Authorization to offer Exemptions from Real Estate Taxes for, Improvements to and New Construction of, Affordable Housing Units.*

*(1) Legislative Findings and Determination of Deteriorated Areas.*

*The Council finds that:*

*(a) The Affordable Housing Unit Tax Exemption Act, July 7, 2022 (hereinafter referred to as the "Act"), authorized local taxing authorities to exempt from real estate taxes, improvements to, or construction of Affordable Housing Units in Deteriorated Areas, under certain terms and conditions; and*

*(b) In accordance with the Act, Council held a public hearing to determine the boundaries of Deteriorated Areas of the City and determined that the following areas of the City are hereby designated a "Deteriorated Area" under the Act:*

*(1) In the areas of the First Council District limited to the following properties;*

*(.a)*

*(2) In the areas of the Sixth Council District, limited to the following properties;*

*(.a)*

*(2) Definitions.*

*"Affordable housing unit in the First Council District." (a) A multiunit residential dwelling where at least 30% of the residential units meet all of the following: (i) Are rent-restricted. (ii) Are occupied by an individual or family whose income is not more than 60% of area median income. (b) The term includes single family residences that are subject to deed restrictions and occupied by an individual or family whose income is not more than 60% of the area median gross income.*

*"Affordable housing unit in the Sixth Council District." (a) A multiunit residential dwelling where at least 30% of the residential units meet all of the following: (i) Are rent-restricted. (ii) Are occupied by an individual or family whose income is not more than 60% of area median income. (b) The term includes single family residences that are subject to deed restrictions and occupied by an individual or family whose income is not more than 60% of the area median gross income.*

*"Area median income." The median household income within the boundaries of a local taxing authority.*

*"Blighted property." The term shall have the same meaning as defined in 1 Pa.C.S. § 1991 (relating to definitions).*

*"Deteriorated area." An area designated by a municipal corporation which consists of blighted property.*

*"Dwelling unit." A house, apartment, or group of rooms intended for occupancy as separate living quarters by family or other groups or a person living alone, containing a kitchen or cooking equipment for the exclusive use of the occupants.*

*"Homestead." As follows: (1) A dwelling used as a home which is occupied by a taxpayer as a primary residence. (2) The term includes: (i) A mobile home which is assessed as realty for local property tax purposes and the land on which the mobile home is situated and other similar living accommodations, including a part of a multidwelling or multipurpose building and a part of the land upon which the multidwelling or multipurpose building is built to the extent that the eligible taxpayer is chargeable by a local taxing authority for property taxes. (ii) A premises occupied by an eligible taxpayer if the eligible taxpayer is required by law to pay a property tax by reason of the taxpayer's ownership or rental of, include a possessory interest in, the dwelling, land or both. As used in this subparagraph: (A) The term "by law" shall not include a contractual obligation between the eligible taxpayer and a person who would otherwise be responsible to a local taxing authority for the payment of the tax. (B) An owner shall include a person in possession under a contract of sale, deed of trust, life estate, joint tenancy or tenancy in common.*

*"Improvement." Repair, construction or reconstruction, including alterations and additions, having the*

*effect of rehabilitating a blighted property so that the blighted property becomes habitable or attains higher standards of safety, health, economic use or amenity, or is brought into compliance with laws, ordinances or regulations governing safety, health, economic use or amenity standards. The term shall not include ordinary upkeep and maintenance.*

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

*"Low-income taxpayer." A taxpayer whose income does not exceed the maximum annual income allowable for an eligible claimant to participate in the Pharmaceutical Assistance Contract for the Elderly Needs Enhancement Tier (PACENET).*

*"Municipal code." A building, housing, property maintenance, fire, health or other public safety ordinance, related to the use or maintenance of real property, enacted by a municipality. The term does not include a subdivision and land development ordinance or a zoning ordinance enacted by a municipality.*

*"Property maintenance code." Title 4 of The Philadelphia Code.*

*"Real estate taxes." A tax on a homestead imposed or authorized to be imposed by a local taxing authority.*

*"Rent-restricted in the First Council District." The maximum rent an owner may charge for a unit does not exceed 30% of the adjusted income of a family or taxpayer whose annual income is less than or equal to 60% of the area median gross income.*

*"Rent-restricted in the Sixth Council District." The maximum rent an owner may charge for a unit does not exceed 30% of the adjusted income of a family or taxpayer whose annual income is less than or equal to 60% of the area median gross income.*

*"Serious violation." A violation of a State law or a municipal code that poses an immediate imminent threat to the health and safety of a dwelling occupant, an occupant in a surrounding structure or a passerby.*

*"Special tax provision." The standards and qualifications provided under this act to establish the eligibility for and the refund or forgiveness of a portion of the taxpayer's real estate tax liability.*

*"Substantial step." An affirmative action as determined by a property code official or officer of the court on the part of a property owner or managing agent to remedy a serious violation of a State law or code, including, but not limited to, physical improvements or repairs to the property, which affirmative action is subject to appeal in accordance with applicable law.*

*"Tax Reform Code of 1971." The act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.*

*"Taxpayer Relief Act." The act of June 27, 2006 (1st Sp. Sess., P.L.1873, No.1), known as the Taxpayer Relief Act.*

*(3) Real property tax exemption.*

*(a) A person may apply for exemption from real property taxation, the assessed valuation of improvements to blighted properties for the creation of, or improvements to, Affordable Housing Units, and the assessed valuation of new construction of Affordable Housing Units within a deteriorated area in the amounts and in accordance with the provisions and limitations specified herein.*

*(4) Exemption schedule.*

*(a) Tax exemption under this chapter shall be on the assessment attributable to the actual cost of new construction or improvements for Affordable Housing Units.*

*(b) The actual amount of real estate taxes exempted shall be in accordance with the following schedule:*

*(.1) For the following years for which improvements would otherwise be taxable:*

*(.a) for the first year, 100% of the eligible assessments shall be exempted;*

*(.b) for the second year, 90% of the eligible assessment shall be exempted;*

*(.c) for the third through tenth years, 80%, 70%, 60%, 50%, 40%, 30%, 20%, 10%, respectively; and*

*(.d) after the tenth year, the exemption shall terminate;*

*(.2) provided that such exemption shall only apply during such period as the property constructed or improved upon remains an Affordable Housing Unit, as defined under section 2. The taxpayer shall be required to verify annually that such property remains an Affordable Housing Unit, as defined under section 2.*

*(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 Affordable Housing Units.*

*(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. The Office of Property Assessment 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) The City of Philadelphia, acting by and through the Department of Revenue, shall be entitled to the return of real estate taxes exempted under the provisions of this Chapter if, within five years following completion of the new construction or improvements:*

*(.a) there exists on the property a serious violation of State law or the Municipal Code and the owner has taken no substantial steps to correct the serious violation within six months following notification of the serious 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, and a final judgment at law or in equity, not subject to appellate review, was imposed by a court of common pleas; or

(b) the taxpayer is subject to a municipal permit denial under 53 Pa.C.S. Ch. 61 (relating to neighborhood blight reclamation and revitalization).

(2) At the time the agreement is entered into between the Office of Property Assessment and the taxpayer who desires tax exemption, if the taxpayer has completed all requirements under section (6), the City shall file a lien against the tax-exempt properties at the rate of the estimated amount of assessment under subsection 4(b). The lien shall be forgiven by the City 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 4(d) in cases of sale or exchange of the property.

(5) Procedure for obtaining exemption.

(a) Notification. A taxpayer desiring tax exemption under this chapter shall notify the Office of Property Assessment in writing on an application form provided by the Office of Property Assessment, submitted at the time the taxpayer secures the building permit or, if no building permit or other notification of new construction or improvement is required, at the time the taxpayer commences construction. The application shall include the following information:

(1) A notarized Statement of Outstanding Tax Obligations, signed by the taxpayer and the Department of Revenue;

(2) Outline of specifications for the new construction or improvements, 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 improvements. The itemization must:

(a) be on contractor letterhead;

(b) indicate the property address of the project; and

(c) be signed by the applicant.

(4) Preliminary architectural drawings or blueprints for the new construction or improvements;

(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;

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

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

*(b) Estimate. The amount of assessment deemed eligible for tax exemption under subsection 4(c) shall be available for public inspection and copying so that a subsequent purchaser is informed of the amount of taxes to be paid after the 10-year exemption period.*

*(c) Office of Property Assessment.*

*(.1) The Office of Property Assessment shall, after completion of the new construction or improvements, assess separately the new construction or improvements and calculate the amounts of the assessment eligible for tax exemption and notify the taxpayer and the Department of Revenue, 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 City.*

*(d) Amendment to Affordable Housing Unit Tax Exemption Ordinance. The cost of new construction or improvements to be exempted and the schedule of taxes exempted which exist at the time of the initial request for tax exemption shall apply to the exemption request. A subsequent amendment to this Chapter shall not apply to a request initiated prior to adoption of its amendment.*

*(6) Eligibility requirements.*

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

*(.1) Conform to zoning ordinance requirements.*

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

*(.3) Correct each municipal code violation.*

*(b) Ineligibility. A property shall be ineligible for tax exemption 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 under subsection (d).*

*(.3) The property owner or developer is delinquent on property taxes related to the subject property, except if the delinquent taxes are paid prior to construction or payment of delinquent taxes has been arranged with the Department of Revenue in accordance with an installment plan. which property taxes are delinquent, except if the delinquent taxes are paid prior to construction or payment of delinquent taxes has been arranged with the Department of Revenue in accordance with an installment plan.*

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

(c) *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 Taxpayer Relief Act.

(d) *Limitations.* The property qualifying and receiving a tax exemption under this chapter shall be ineligible for or receive additional tax exemptions under 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, for a minimum of 15 years from the date the property received a tax exemption under this chapter.

(e) *Prohibitions.* For the period of time that a property receives a tax exemption under this chapter, a purchase or sale of the property or any portion of the property may not be structured to exclude or exempt the transaction from a realty transfer tax due the City that would not be excluded or exempt, except for the following:

(.1) *A sheriff sale or tax claim bureau sale.*

(.2) *A corrective deed.*

(.3) *A transfer by a 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.*

(.5) *A transaction excluded from the realty transfer tax under Article XI-C of the Tax Reform Code of 1971.*

(7) *The Department of Revenue and the Office of Property Assessment are authorized to adopt such regulations as may be needed to implement this Section of the Code, consistent with the intent of this Section.*

SECTION 3. Title 21 of the Philadelphia Code shall be amended to read as follows:

## TITLE 21. MISCELLANEOUS

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### CHAPTER 21-3400. THE ACT 135 DIVERSION PROGRAM

§ 21-3401 *Act 135 Right to Counsel for Real Respondents.*

(1) *Definitions.*

(a) *Covered Individual.* Any natural person who owns or lawfully resides in any real property in the City of Philadelphia and is a resident of the City of Philadelphia, whose gross income is not in excess of 200% of the federal poverty guidelines as established and updated periodically by the United States Department of Health and Human Services (42 U.S.C. 9902(2)).

*(b) Covered Proceeding. Any judicial or administrative proceeding brought under Act 135, 2008 P.L. 1672, No. 135, including a petition brought in the First Judicial District Orphans' Court Division, under 20 Pa.C.S. 3546.*

*(c) Full Legal Representation. Ongoing legal representation provided by a member of the bar of Pennsylvania, in good standing, to a Covered Individual and all legal advice, advocacy and assistance associated with such representation. Such representation includes, but is not limited to, the filing of a notice of appearance on behalf of the Covered Individual in a Covered Proceeding.*

*(2) Legal Representation in Act 135 proceedings.*

*(a) The Managing Director shall ensure that all Covered Individuals receive Full Legal Representation in a Covered proceeding, as soon as possible after the initiation of such proceeding.*

*(b) The assigned judge in the Covered proceedings may appoint a Covered Individual's competent and qualified legal representation to represent a Covered Individual, with the costs for such legal representation born by the City of Philadelphia, up to appropriate limits as determined by the Managing Director.*

*(c) If any provision of this Ordinance or application thereof to any persons or circumstances is judged invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions or applications of the Ordinance that can be given effect without the invalidated provision or application and to this end the provisions of the ordinance are declared severable.*

*(d) The Mayor can task any agency of their choosing to promulgate regulations to determine the maximum amount paid to an attorney providing Full Legal Representation to any Covered Individual in connection with their service in conjunction with any Covered Proceeding under this Ordinance.*

SECTION 4. This Ordinance shall take effect upon the approval by the Board of Education of the School District of Philadelphia of the exemptions authorized by this Ordinance.