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TAX ABATEMENT FOR LOW- AND MODERATE INCOME HOUSING

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You asked for an analysis and legislative history of the property tax abatement for low- and moderate-income housing ([CGS §§ 8-215](#) and [8-216](#)). Specifically, you want to know (1) whether new housing developments qualify for the abatement and (2) the significance of the 40-year limitation on the state reimbursement for the abatement.

SUMMARY

State law allows (1) towns to adopt an ordinance abating property taxes on certain low- and moderate-income housing that would otherwise be taxable and (2) the Department of Economic and Community Development (DECD) to reimburse towns for the revenue loss (i.e., make a payment in lieu of taxes or PILOT). The abatement must be made under a contract between the town and the housing's owner that specifies how the owner will use the money saved from the abatement. The abatement ends if the property is not used solely for housing low- and moderate-income people.

Towns may abate property taxes for any housing that meets these requirements, including newly constructed developments. But the corresponding state reimbursement program is closed to new applicants due to budgetary constraints, according to Michael Santoro, community development specialist at DECD.

The legislature created the tax abatement and PILOT programs in 1967 as part of legislation that centralized the state's housing functions under a newly established department (PA 67-522). The reimbursement period was initially limited to 20 consecutive fiscal years and later extended to 40 years to align it with to federal loan and rental assistance terms. In 2008, the legislature eliminated the 40 year reimbursement limitation (PA 08-10).

STATE-REIMBURSED TAX ABATEMENT FOR LOW- AND MODERATE-INCOME HOUSING

[CGS § 8-215](#) allows towns to adopt an ordinance abating or reducing all or part of the property taxes on housing that is constructed or rehabilitated with government funds and occupied by low- and moderate-income people and families. The abatement must be made under a contract between the town and the property owner specifying the terms of the abatement. The property owner must use the abatement to (1) reduce rents and improve the housing's quality and design, (2) achieve mixed income occupancy, or (3) provide related facilities and services. The abatement ends if the housing is not used solely for low- and moderate-income people.

Under [CGS § 8-216](#), DECD may enter into contracts with towns to reimburse them for the abatements. Generally, in order to qualify for reimbursement, the housing must have been built or rehabilitated after July 1, 1967 and must be assessed by the town based on the capitalized value of its rental income, rather than its fair market value. The PILOT cannot exceed the abatement amount and is contingent on the housing fulfilling the abatement program's purposes.

[CGS § 8-216](#) also allows DECD to enter into contracts with a town and its housing authority or the Connecticut Housing Finance Authority (CHFA) to provide a PILOT to the town for real property the authority or CHFA owns or leases under DECD's moderate rental and primary housing programs. The payment must equal the amount of taxes the properties would generate if they were not tax-exempt. The contract must provide that, in consideration for this PILOT, the town must waive the PILOT provisions that would otherwise apply, which equals 12.5% of the rent it receives for occupied costs or certain other authorized purposes.

HISTORY OF THE ABATEMENT AND PILOT PROGRAM

The legislature created the tax abatement and PILOT programs in 1967 as part of legislation that centralized the state's housing functions under the newly established Department of Community Affairs (DCA) (PA 67-522).

Under the original legislation, the reimbursement period was limited to 20 consecutive fiscal years. The legislature extended it to 40 years in 1969 (PA 69-137). According to Michael Santoro at DECD (DCA's successor agency), the extension was intended to align the state reimbursement to federal construction or rehabilitation loans or rental subsidies. The abatement was designed to complement properties that were financed under 40-year Federal Housing Administration loans and tied to 40-year federal rental assistance agreements.

In 2008, the legislature eliminated the 40 year reimbursement limitation (PA 08-10). During the Senate debate, Senator Coleman stated that with the "substantial need for affordable housing and affordable housing units in the State of Connecticut, it seems that this 40-year restriction is sort of counterproductive and maybe irrelevant at this point in time." Sen. Roraback noted that the bill was meant to "extend additional relief to affordable housing developments from the requirement to pay the property tax" (*Senate transcript*, April 9, 2008).

RP:ts