Section 4.07 - PHFL Sections 125, 127

Redevelopment Company Housing Projects (First exemption) **PHFL Sections 125, 127**

Exemption Code(s): 4867

Year Originally Enacted: 1942

Related Statutes: None.

SUMMARY: If allowed by local option, new or rehabilitated dwellings that are (1) located in substandard or insanitary areas, (2) owned by redevelopment companies, and (3) used for low-income or moderate-income housing are partially exempt from taxation, but are liable for special ad valorem levies and special assessments. The amount of the exemption is limited to that part of the assessed value which exceeds the value of the property at the time of acquisition by the redevelopment company that originally undertook the project. In the case of rehabilitation projects, instead of granting such partial exemption, the local legislative body may agree to exempt all or part of the total assessed value of the project provided that the amount of taxes paid will not be less than 10% of the annual shelter rent or carrying charges of the project. The duration of both types of exemption is limited.

A. ELIGIBILITY REQUIREMENTS:

1. **Ownership Requirements:** Property must be owned or under the control of a redevelopment company. Housing projects which are receiving or are about to receive exemption in accordance with this statute and which are acquired by a mutual redevelopment company continue to be exempt under the same conditions as contracted between the municipality and the original redevelopment company. During the period of tax exemption, the redevelopment company may not sell all or any part of the project without the consent of the local legislative body. The organizational requirements for a redevelopment company are as follows:

   Laws under which incorporation required: PHFL Article 5.

   > Restrictions on corporate purposes or activities as stated in certificate of incorporation: (1) Company must be organized to plan, construct, own, maintain, operate, sell, and convey housing, commercial, cultural, or recreational facilities subject to the supervision of the State Superintendent of Insurance, the NYC Department of Housing Preservation and Development, or the comptroller or other chief fiscal officer of a municipality outside New York City, as appropriate and (2) interest paid by the company on outstanding debentures may not exceed 6% per year; annual distributions to shareholders, partners, or beneficiaries of a trust may not exceed 6% of the company's total capital.

2. **Property Location Requirements:** Property must be located in a substandard or insanitary area.

3. **Property Use Requirements:** Property must be used primarily for housing for low-income or moderate-income persons or families (according to tenant income limits agreed to by the municipality). Portions of the property may be used for business, commercial, cultural, or recreational purposes if they are appurtenant to the housing project and have been approved by the NYC Department of Housing Preservation and Development or the comptroller or other chief fiscal officer of a municipality outside New York City, as appropriate.

4. **Certification by State or Local Government:** None required.

5. **Required Construction Start Date or Other Time Requirement:** None.

B. LOCAL OPTION:

Yes – Each municipality that is also an assessing unit may choose (1) whether or not to allow the exemption for each project and (2) whether to allow exemption of all or part of the value authorized by state law. Where a municipality acts on behalf of another taxing jurisdiction (such as a county, school district, or village) in assessing real property for the purpose of taxation, or in levying taxes therefor, the agreement by the municipality to exempt the property applies to taxes levied by the other taxing jurisdictions.

C. LIMITATION ON EXEMPTION:

	General Municipal Taxes	School District Taxes	Special Ad Valorem Levies	Special Assessments
1. Amount	local option may limit*	local option may limit*	No exemption allowed	No exemption allowed
2. Duration	Yes**	Yes**	No exemption allowed	No exemption allowed
3. Taxing Jurisdiction **a. County or County Special Districts**	Ex***	NA	Tax	Tax
b. City	Ex***	NA	NA	Tax
c. Town or Town Special District	Ex***	NA	Tax	Tax
d. Village	Ex***	NA	NA	Tax
e. School District	NA	Ex***	NA	NA
	Ex-Exempt	**Tax-Taxable**	**NA-Not Applicable**	

* Rehabilitation projects - amount may be limited to either (1) part of the increase in assessed value that exceeds the value of the property at the time of acquisition by the redevelopment company that originally undertook the project or (2) part of the total assessed value of the project. Other projects - amount may be limited as described in (1) above. For rehabilitation projects there are minimum limits on the amount of taxes to be paid; taxes may not be less than 10% of the annual shelter rent or carrying charges of the project.

** The duration of the exemption is limited to the period provided by the local option, but may not exceed 25 years, unless one of the following cases exists:

1. The project is owned by a mutual redevelopment company and would require substantial increases in the carrying charges of the project if the exemption expiration date were enforced. In such case, the local legislative body may contract to extend such exemption period for no more than 25 additional years, provided (a) the average rate of tax exemption for the additional period does not exceed 50%, (b) the rate of tax exemption for the first two years of the additional period is equivalent to that of the last year of the original exemption period, and (c) the rate of tax exemption thereafter will be reduced in equal decrements every two years.

   For such projects located in New York City, the City Council may authorize the exemption during the final 11 years of the additional 25-year period, provided that the amount of taxes to be paid by the mutual redevelopment company in the 11-year period may not be less than an amount equal to the greater of: (1) ten percent of the annual rent or carrying charges of the project minus utilities for the residential portion of the project, or (2) the taxes payable by the company for the residential portion of the project in the fourteenth year of the additional 25-year exemption period. The Council may further extend the period of the additional 25-year exemption, up to a total of 35 years from the date of expiration of the initial tax exemption, provided that the amount of taxes to be paid by the mutual redevelopment company during the extension beyond the additional 25-year period may not be less than an amount equal to the greater of: (a) 10% of the annual rent or carrying charges of the project minus utilities for the residential portion of the project, or (b) the taxes payable by the company for the residential portion of the of the project in the fourteenth year of this additional 25-year exemption period.

2. The project is permanently financed by a federally aided mortgage. In such case, the exemption will continue as long as the mortgage is outstanding, but in no event for more than 40 years.

3. The project is financed by a loan from the NYC Housing Development Corporation. In such case, the exemption will continue to operate as long as the loan is outstanding.

A redevelopment company may elect to terminate the tax exemption of a project by paying to the appropriate taxing jurisdiction the total of all accrued taxes for which exemption has been granted and received, together with interest at the rate of 5% per year.

*** If allowed by local option.

D. PAYMENTS IN LIEU OF TAXES: None required.

E. CALCULATION OF EXEMPTION:

1. **General Municipal and School District Taxes**:

   % of assessed value allowed by local option:

   Rehabilitation projects - either (1) % of increase in value over the value at the time of acquisition by the redevelopment company that originally undertook the project or (2) % of total value.

   Other projects - % of increase in value over the value at the time of acquisition by the redevelopment company that originally undertook the project.

2. **Special Ad Valorem Levies and Special Assessments**: No exemption allowed.

F. CODING OF EXEMPTION ON ASSESSMENT ROLL:

Code	Description of Alternative Codes Possible
4867—	

Assessment Roll Section(s): Taxable (RPS Section 1).

NOTE: This code should not be used to identify property that is exempt under the provisions of RPTL §423 (phase out of exemption) or is exempt under any of the statutes listed under Similar Exemptions below.

G. FILING REQUIREMENTS (Owner or Occupant of Property): None.

H. REPORTING REQUIREMENTS (Assessor): None.

I. SIMILAR EXEMPTIONS: See Chart IA and Chart IB.

Please send general questions or comments to Jerome McCall