

# SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

**BILL NO.** Senate Bill 352

**PRINTER NO.** 1192

**AMOUNT**

No Fiscal Impact

**FUND**

General Fund

**DATE INTRODUCED**

March 4, 2019

**PRIME SPONSOR**

Senator J. Ward

**DESCRIPTION AND PURPOSE OF BILL**

Senate Bill 352 creates a freestanding act to be known as the Tax Exemption and Mixed-Use Incentive Program Act 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, the act allows for mixed-use housing and development in accordance with zoning ordinances within designated areas, which sets it apart from other similar acts that separately address commercial property and residential property only.

The legislation is intended to supplement the existing Improvement of Deteriorating Real Property or Areas Tax Exemption Act (Act 34 of 1971) and the Local Economic Revitalization Tax Assistance Act, commonly known as "LERTA" (Act 76 of 1977).

Under the legislation, a local taxing authority (LTA) 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", subject to certain conditions, limitations, previously affixed boundaries and a public hearing. A deteriorated area is designated by a municipality to consist of blighted property and includes an "impoverished area" as certified by the Department of Community and Economic Development (DCED). Two or more municipalities may join together for the purposes of determining the boundaries of a deteriorated area and implementing the program.

The legislation defines "blighted property" as a premises that meets at least one of the following conditions:

1. Is ascertained to be a public nuisance;
2. 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;

# SENATE APPROPRIATIONS COMMITTEE

## FISCAL NOTE

3. Has been condemned or otherwise deemed unfit for occupancy or use or that is lacking in the facilities as required by the Pennsylvania Construction Code Act;
4. Is a fire hazard;
5. Is 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;
6. Is vacant and has not been rehabilitated within one year from receipt of notice for corrective action, except a property where a valid construction permit is in place;
7. Is 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;
8. Is 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; or
9. Is a property that has been declared abandoned in writing by the owner, including an estate that is in possession of the property.

If a deteriorated area, which may include adjacent properties, 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. Senate Bill 352 defines "mixed-use housing and development" as 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.

Senate Bill 352 requires a local taxing authority granting a tax exemption under the legislation to provide for the exemption either on the assessment attributable to the actual cost of new construction or improvements or up to any maximum cost uniformly established by the municipality, in accordance with the following schedule:

# SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

Year for which New Construction or Improvements Would Otherwise Be Taxable	Percent of Eligible Assessment Exempted
1 <sup>st</sup> , 2 <sup>nd</sup> and 3 <sup>rd</sup> Years	100%
4 <sup>th</sup> Year	90%
5 <sup>th</sup> Year	75%
6 <sup>th</sup> Year	60%
7 <sup>th</sup> Year	45%
8 <sup>th</sup> Year	30%
9 <sup>th</sup> Year	15%
10 <sup>th</sup> Year	10%
After Year Ten	0% - No Exemption

The exemption from taxes shall be upon the property exempted and shall not terminate upon the sale or exchange of the property. Upon request, a local taxing authority shall provide an estimate of the amount of assessment exempted for each eligible property based on the exemption schedule.

The legislation provides that an LTA is entitled to a return of its proportional share of taxes exempted 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 property maintenance code, and the owner has taken no substantial corrective measures within six months following notification.

Senate Bill 352 establishes a procedure by which a person desiring tax exemption must notify the local taxing authority in writing on an application form provided by the LTA that describes certain elements of the new construction or improvement. The application form must be submitted at the time the person secures the building permit, if required, or at the time the person commences construction. The amount of assessment deemed eligible for tax exemption 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 has expired.

The legislation requires county assessment offices to assess separately the new construction or improvements and calculate the amounts of the assessment eligible for tax exemption subject to the limits established by the local taxing authorities and notify the taxpayer and the LTAs of the reassessment and amounts of the assessment eligible for exemption. Appeals from the reassessment and the amounts eligible for tax exemption may be taken by the taxpayer or LTAs, as provided by law.

# SENATE APPROPRIATIONS COMMITTEE

## FISCAL NOTE

To be eligible for tax exemption, Senate Bill 352 requires that the new construction or improvements meet the following conditions:

1. Conform to zoning ordinance requirements and meet any mixed-use housing and development standards, if applicable;
2. Increase the value of the property by at least 25%; and
3. Correct all code violations, if applicable.

A property is ineligible for tax exemption under the following circumstances:

1. The property receives other tax abatement or exemption incentives;
2. The property receives tax relief through a state program other than Act 1 of Special Session 2006 (i.e., property tax relief from gaming);
3. The owner or developer is delinquent on the property's taxes, unless the taxes are paid prior to construction or an installment plan has been arranged;
4. The property owner has a legal or equitable interest in other property for which taxes are delinquent, unless the taxes are paid prior to construction or an installment plan has been arranged;
5. New construction or improvement has commenced prior to filing an application for exemption; or
6. The property includes a restricted improvement that poses a health or safety risk to an individual residing above the first floor.

The legislation places certain restrictions on improvements that involve mixed-use housing and development such that certain establishments may not be sited on the first floor for health and safety reasons, including, but not limited to, gas stations, junkyards, and heavy manufacturing facilities.

Senate Bill 352 requires that the amount of assessment eligible for exemption be offset by the amount of property tax rebate received under Act 1 of Special Session 2006. Furthermore, the qualifying property shall be ineligible for or receive an additional tax exemption for a minimum of 15 years from the date the property received a tax exemption under the program. Except under certain specified circumstances, no purchase or sale of the property shall be structured in a manner that excludes or exempts the transaction from realty transfer tax for the period of time that a property receives a tax exemption under the program.

This act shall take effect in 60 days.

### **FISCAL IMPACT:**

Senate Bill 352 will have no fiscal impact on Commonwealth funds.

The legislation provides a process whereby local taxing authorities may exempt from real property taxation blighted properties that are significantly improved or new construction that occurs in deteriorated areas, thereby returning these properties to a higher or more productive use. As such, Senate Bill 352 provides an opportunity for communities to modernize, revitalize and grow, which may provide increased local

# **SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE**

tax revenues in future years by improving the local economy and moving blighted property and deteriorated areas back onto the tax rolls.

The Local Government Commission (LGC) indicates that the Department of Community and Economic Development has identified 199 municipalities that currently participate in either the LERTA program (Act 76 of 1977) or the Improvement of Deteriorating Real Property or Areas Tax Exemption Act (Act 34 of 1971), which are similar to the program established by Senate Bill 352. However, neither the LGC nor DCED have access to the fiscal impact of the existing programs at the local level.