

Frequently Asked Questions  
Residential Housing Facilities Act  
(2022 PA 237)

The following frequently asked questions are being provided as a service to assessors and taxpayers to better inform them about the administration of 2022 PA 237.

**Note: The information contained in these frequently asked questions constitutes an analysis of one or more statutes and not legal advice. Since the analysis is limited to general statutory requirements, individual facts may result in different conclusions being reached. Therefore, individuals may wish to consult legal counsel.**

**1. What is a Residential Housing Exemption?**

The Residential Housing Facilities Act (known as the Residential Housing Exemption), 2022 PA 237, provides a tax incentive to owners of rental housing property of more than four units to enable renovation and expansion of aging facilities and assist in the building of new facilities. A Residential Housing Exemption Certificate (RHEC) entitles the facility to exemption from ad valorem real property taxes for a term of 1-12 years as determined by the local governmental unit. Applications are filed, reviewed, and approved by the local governmental unit. The State Tax Commission (STC) must also approve the application and issue the exemption certificate.

**2. What are the income tests for Residential Housing?**

There are two income-related tests that must be met:

- a. The housing unit is rented or leased to an income-qualified household, i.e. a household whose adjusted household income is 120% or less of the countywide area median income as posted annually by MSHDA on its website (see questions 22 – 24 for complete definitions) and
- b. The rent/lease amount is no more than 30% of the income-qualified household's modified household income as determined by the local governmental unit (LGU). See question 25 for the definition of modified household income.

**3. Within a housing structure or development, can only a portion of the housing units be designated for residential housing?**

Yes. The housing units designated for residential housing are eligible for the property tax exemption and the specific tax. The other housing units can either remain on the ad valorem tax roll or be included in the exemption but be subject to a specific tax equal to the ad valorem property tax

**4. Who establishes a Residential Housing District?**

The legislative body of a city, village, or township may establish a Residential Housing District (RHD) on its own initiative or upon written request filed by the

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owner or owners of at least 50% of the taxable value of the property located within a proposed district. The resolution establishing the RHD must include the following information:

- a. A tax savings is provided only for housing occupied by households whose rent is no more than 30% of modified household income and whose adjusted household income is 120% or less of countywide area median income.
- b. Housing owners must annually certify which housing units were occupied in the prior year by households meeting the income tests.
- c. Each year the local government will calculate the specific tax based on the number of housing units occupied in the prior year by households meeting the income tests.

**5. Who can file an application for a Residential Housing Exemption Certificate (RHEC) and with whom is it filed?**

The owner of property in a Residential Housing District (RHD) may file an application for a RHEC with the Clerk of the city, village, or township that established the RHD.

**6. How do I apply for a Residential Housing Exemption Certificate?**

Applications can be found on the Michigan Department of Treasury website: [www.michigan.gov/propertytaxexemptions](http://www.michigan.gov/propertytaxexemptions). Completed applications are filed with the clerk of the city, village, or township and must be accompanied by the following documentation:

- a. A legal description of the property referred to in the application.
- b. A statement describing the facility and the proposed project that must include all of the following items:
- c. General description of the facility (including year built, original use, most recent use, number of stories and square footage);
- d. General description of the proposed use of the qualified facility;
- e. A description of the general nature and extent of the new construction or rehabilitation to be undertaken;
- f. A time schedule for undertaking and completing the new construction or rehabilitation of the qualified facility; and
- g. Detailed itemized costs of the new construction or rehabilitation to be undertaken with the total estimated investment amount matching the investment amount on the application.
- h. Provide a site plan and building floor plan approved by the local planning commission or local zoning administrator that includes the total number of residential dwelling units to be available for lease or rent.
- i. Provide a statement describing the number of residential dwelling units that will be reserved for income-qualified households throughout each calendar

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- year in which the specific tax is in effect.
- j. For housing units that will not be occupied by income-qualified households, request that those housing units be assessed on the ad valorem tax roll or request that those housing units be exempted and subject to a specific tax equal to the ad valorem tax.
  - k. Provide a statement that the applicant agrees to provide the LGU with an income certification for the income-qualified household residing within each unit designated as residential housing property each year that the income-qualified household resides in that residential housing property.
  - l. Provide a statement that the applicant agrees to allocate the benefits of the tax exemption granted under this act exclusively to residential housing property.

**7. Are there provisions in the application process that are time sensitive?**

Yes. Work may not begin before December 28, 2022, the effective date of 2022 PA 237. An application received by the STC after October 31<sup>st</sup> will not be processed until the following tax year. Also, within 60 days after the STC grants a residential housing exemption certificate for a new facility, the State Treasurer may change the millage rate used to calculate the specific tax. See the answer to questions 15 and 27.

**8. Who determines if a facility qualifies for a Residential Housing Exemption Certificate (RHEC)?**

Initially, the determination of qualification for an RHEC is made by the local governmental unit (LGU) when the application is filed with the clerk. Not more than 60 business days after receipt of the application, the LGU shall by resolution either approve or disapprove the application for a certificate in accordance with the Act. If approved, the clerk forwards the application and resolution to the STC. The resolution is not effective unless approved by the STC. The STC shall approve or disapprove the resolution.

**9. What statements are required in a resolution approving a Residential Housing Application by the local governmental unit?**

- a. A statement that the Residential Housing Exemption District was legally established including the date established and the date of hearing as provided by section 3 of 2022 PA 237.
- b. A statement indicating whether the taxable value of the property proposed to be exempt plus the aggregate taxable value of property already exempt under 2022 PA 237 and under 1974 PA 198 (IFT's) exceeds 5% of the total taxable value of the unit.
- c. A statement of the factors, criteria, and objectives, if any, necessary for extending the exemption, when the certificate is for less than 7 years.

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- d. A statement that a public hearing, separate from the hearing held for the district, was held on the application as provided by section 4(2) of 2022 PA 237 including the date of the hearing.
- e. A statement that the applicant is not delinquent in any taxes related to the facility.
- f. If it exceeds 5% (see above), a statement that exceeding 5% will not have the effect of substantially impeding the operation of the qualified local governmental unit or of impairing the financial soundness of an affected taxing unit.
- g. A statement that all of the items described under Part 2 of the Application for Residential Housing Exemption Certificate have been provided to the qualified local governmental unit by the applicant.
- h. A statement that the applicant provided a site plan and building floor plan approved by the local planning commission or local zoning administrator, whichever is applicable under the local zoning ordinance, that includes the total number of residential dwelling units to be available for lease or rent on the property.
- i. A statement that the applicant provided a statement describing the number of residential dwelling units that will be reserved for income-qualified households at any given time throughout each calendar year in which the specific tax is in effect.
- j. A determination whether the residential dwelling units not reserved for income-qualified households will remain on the ad valorem tax roll or be included in the exemption but subject to a specific tax equal to the ad valorem tax.
- k. A statement that the applicant agrees to provide the legislative body of the qualified local governmental unit with an income certification for the income-qualified household residing within each residential dwelling unit designated as residential housing property each year that the income-qualified household resides in that residential housing property.
- l. A statement, for a rehabilitated facility, that the applicant agrees to invest not less than \$50,000.00 in the existing residential housing property that has been renovated.
- m. A statement that the commencement of the rehabilitation of the facility did not occur before December 28, 2022.
- n. A statement of the period of time authorized by the qualified local governmental unit for completion of the rehabilitation.

**10. What does the STC do when it receives an application and resolution from the clerk of the qualified local governmental unit (LGU)?**

The STC reviews the application for completeness and compliance with the statute. If the application is incomplete, staff sends a request for the missing information. Once the application is complete, the STC is required to either approve or disapprove the resolution within 60 days. If approved, the STC issues

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a Residential Housing Exemption Certificate, and it is effective December 31<sup>st</sup> immediately following the date of issuance by the STC.

**11. Can an application for a Residential Housing Exemption Certificate be denied?**

Yes. An application can be denied at the local unit level if all of the requirements are not met by the applicant. The STC can also disapprove the resolution.

**12. Can a decision of the STC regarding a Residential Housing Exemption Certificate (RHEC) be appealed?**

Yes. A party aggrieved by the issuance, refusal to issue, revocation, transfer or modification of an RHEC may appeal a final decision of the STC by filing a petition with the Michigan Tax Tribunal, [www.michigan.gov/taxtrib](http://www.michigan.gov/taxtrib), within 35 days. MCL 205.735a(6)

**13. What is the term of a Residential Housing Exemption Certificate (RHEC)?**

The RHEC may be issued for a period to be determined by the local governmental unit (LGU) of at least one (1) year, but not more than twelve (12) years. If the number of years determined is less than (7), the certificate may be subject to review by the LGU and the certificate may be extended based on factors, criteria and objectives put into place at the time of the original LGU approval. The total amount of time determined for the certificate, including any extensions, shall not exceed twelve (12) years after the completion of the qualified facility. The certificate shall commence with its effective date and end on the December 30<sup>th</sup> immediately following the last day of the number of years approved.

**14. What determines the starting date of a Residential Housing Exemption Certificate (RHEC)?**

The effective date of the RHEC is December 31<sup>st</sup> immediately following the date of issuance of the certificate by the STC.

**15. How is the Residential Housing Facility Tax (RHFT) computed on a Residential Housing Exemption Certificate?**

New or Rehabilitated Facility: Multiply 50% of the state-average mills levied on commercial, industrial, and utility property in the immediately preceding calendar year by the taxable value of the real property (excluding land) for the current tax year. Within 60 days after the STC grants an RHEC, if the State Treasurer does not determine that reducing the number of mills levied under the state education tax (SET) is necessary to provide an adequate supply of housing for income-qualified

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households, the RHFT millage rate is increased by three mills. If the State Treasurer determines that further reducing the millage rate used to calculate the RHFT is necessary to provide an adequate supply of housing for income-qualified households, the State Treasurer may exclude an additional three mills of SET from the millage rate to calculate the RHFT.

NOTE: For a part of residential housing property that in the prior year was occupied by an individual, couple, family, or group of unrelated individuals either with rent in excess of 30% of modified household income or with adjusted household income in excess of 120% of the countywide area median income as posted by the Michigan State Housing Development Authority on its website, the specific tax paid in lieu of taxes for the year on that part of the facility must be equal to the full amount of the taxes that would be paid on that portion of the facility if the facility were not tax exempt.

**16. Are there other provisions related to the residential housing income tests?**

Yes. To verify continued eligibility as residential housing property, an LGU may develop and implement an audit program or may contract with an independent third-party auditor, the LGU may require the applicant to cover the cost of the auditor. For a formerly income-qualified household that has an income increase and is no longer an income-qualified household, that household may continue to reside in the residential housing unit only for the remainder of the lease agreement.

**17. Are special assessments impacted by the granting of a Residential Housing exemption?**

Special assessments may be impacted. Special assessments levied under 1951 PA 33, the police and fire special assessment act, do not apply to property with a Residential Housing Facilities exemption. However, the special assessments would still be applicable to the land on which the Residential Housing Facilities exemption property is located. Conversely, for special assessments levied under public acts other than 1951 PA 33, property with a Residential Housing Facilities exemption pays the full special assessment, the same as any “ad valorem” property.

**18. Can a Residential Housing Exemption Certificate (RHEC) be transferred?**

Yes. An RHEC may be transferred and assigned by the holder of the certificate to a new owner of the facility if the qualified local governmental unit approves the transfer after application by the new owner(s).

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**19. Can a Residential Housing Exemption Certificate (RHEC) be revoked? If yes, who holds the authority to do so?**

Yes. The legislative body of the qualified local governmental unit (LGU) may, by resolution, revoke the RHEC of a facility either upon request of the certificate holder or if the legislative body of the qualified LGU finds that the completion of the qualified facility has not occurred within the time authorized by the LGU in the certificate or a greater time authorized by the LGU, or that the holder of the exemption certificate has not proceeded in good faith with the operation of the qualified facility in a manner consistent with the purpose of the Act and in the absence of circumstances beyond the control of the holder of the exemption certificate.

**20. When does the revocation of a Residential Housing Exemption Certificate take effect?**

The revocation will take effect December 31<sup>st</sup> in the year in which the local governmental unit revokes the certificate by resolution.

**21. Can a revoked certificate be reinstated?**

Yes. Section 12 of the Act provides for the reinstatement of a revoked certificate. A reinstatement of a certificate must be approved by both the local governmental unit and the STC.

**22. What is the definition of “residential housing property?”**

MCL 207.952(m) defines “residential housing property” as:  
“that portion of real property not occupied by an owner of that real property, that is used for residential purposes, is rented or leased to an income-qualified household at no more than 30% of the household’s modified household income as determined by the qualified local governmental unit, and is either a multiple-unit dwelling of more than 4 units or a dwelling unit in a multiple-purpose structure of more than 4 dwelling units. Residential housing property does not include any of the following:  
(i) Land.  
(ii) Property of a public utility.”

**23. What is the definition of “income qualified household?”**

MCL 207.952(d) defines “income qualified household” as:  
“an individual, couple, family, or group of unrelated individuals whose adjusted household income is 120% or less of the countywide area median income as posted annually by the Michigan state housing development authority on its website.”

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**24. What is the definition of “adjusted household income?”**

MCL 207.952(a) defines “adjusted household income” as:

“that term as defined in R 125.101 of the Michigan Administrative Code.

R125.101 of the Michigan Administrative Code defines “adjusted household income” as:

“the gross annual income from all sources and before taxes or withholding of all members of a household living in a dwelling unit or housing unit after deducting all of the following:

- (i) Unusual or temporary income of any member of the household.
- (ii) Six hundred and fifty dollars for each member of the household.
- (iii) Earnings of a member of a household who is under 18 years of age or who is physically or mentally handicapped.
- (iv) Fifty percent of the income of a second adult wage earner jointly occupying the dwelling or housing unit whose individual income is less than that of the wage earner with the highest income.
- (v) The lesser of \$1,000.00 or 10% of the gross annual income.

R125.102(i) of the Michigan Administrative Code provides:

(i) "Gross income," for determining eligibility, means all income derived from whatever source, as follows:

(i) In computing gross income, all the income of the members of the household, other than minors, living in the same dwelling unit and contributing to the expenses of the household is to be considered. Gross income shall be computed without deduction for the following:

- (A) Funds paid into a tax shelter retirement account.
- (B) Losses attributable to a farming syndicate as described in section 464 of the internal revenue code, 26 U.S.C. §464.
- (C) Losses attributable to any type of corporation or partnership engaged in exploring for or exploiting oil and gas resources.
- (D) Losses attributable to any type of corporation or partnership engaged in equipment leasing.
- (E) Losses attributable to any type of corporation or partnership engaged in holding, producing, or distributing motion picture films or video tapes.
- (F) Child support payments made by an applicant for the benefit of the applicant's child or children.
- (G) Alimony, separate maintenance, or similar periodic payments that an applicant is required to make to a spouse or former spouse.

(ii) Gross income shall include all of the following:

- (A) The gross amount, before any payroll deductions, of wages; salaries; all overtime earnings in excess of \$4,000.00 per annum; commissions; fees; tips; bonuses; gambling winnings; and prizes won, except for Michigan lottery winnings and prizes.
- (B) The net income from the operation of a business or profession or from the

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rental of real or personal property. For this purpose, if the operation results in a loss, the loss may not be used to offset income generated from other sources. For this purpose, any shareholder that owns 10% or more of any outstanding class of stock in a corporation shall also be deemed to have received income in its proportionate share of net earnings not otherwise distributed in salaries or dividends.

- (C) All dividends and interest, including otherwise tax-exempt interest.
- (D) The full amount of periodic payments received from social security, housing assistance payments, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts.
- (E) Payments in place of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay.
- (F) The full amount of public assistance payments.
- (G) Periodic and determinable allowances, such as alimony and separate maintenance payments received, housing allowances received, and regular contributions or gifts received from persons who do not reside in the dwelling, if such sums are received on a recurrent basis and if such sums may be reasonably expected to continue.
- (H) The distributive share of partnership income.
- (I) All capital gains.
- (J) Child support payments received by an applicant for the benefit of the applicant's child or children.
- (iii) Gross income does not include any of the following:
  - (A) Casual, sporadic, or irregular gifts.
  - (B) Amounts that are specifically for, or in reimbursement of, the cost of medical expenses.
  - (C) Lump sum additions to household assets, such as inheritances; insurance payments, including payments under health and accident insurance; worker's compensation; and settlements for personal or property losses.
  - (D) Amounts of educational scholarships paid directly to the student or to the educational institution, and veterans administration schooling benefits.
  - (E) Foster child care payments.
  - (F) The value of coupon allotments for the purchase of food pursuant to the food stamp act of 1977, 7 U.S.C. §§2011 to 2027, which is in excess of the amount actually charged the eligible household.
  - (G) Overtime earnings of \$4,000.00 or less per annum

**25. What is the definition of “modified household income”?**

As defined in MCL 207.952(e), “modified household income” is “adjusted household income” increased to include the earnings of a member of a household who is physically or mentally handicapped.

**26. Is a minimum investment required for a rehabilitated facility?**

Yes. A rehabilitated facility must have a renovation investment of not less than

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\$50,000 on or after December 28, 2022 (the effective date of 2022 PA 237) to bring the property into conformance with minimum local building code standards for occupancy, as determined by the LGU.

**27. What is the State Treasurer’s State Education Tax (SET) exclusion?**

Within sixty (60) days after the granting of a new Residential Housing Exemption Certificate, the State Treasurer may exempt 50% or 100% of the SET mills from the millage rate calculation for the Residential Housing Facilities Tax.

**28. What is required of the Local Governmental Unit regarding the yearly status reporting of the Residential Housing Exemptions to the State Tax Commission?**

Not later than June 15<sup>th</sup> of each year, each qualified local governmental unit granting a Residential Housing Exemption shall report to the State Tax Commission on the status of each exemption. The report must include the current taxable value of the property to which the exemption pertains.

**29. Where can I obtain copies of previously issued Residential Housing Facilities Act Certificates?**

Copies of certificates acted upon by the State Tax Commission will be available on the Department of Treasury website at: [www.michigan.gov/propertytaxexemptions](http://www.michigan.gov/propertytaxexemptions). Choose the exemption program under which the certificate was issued. Within the “Certificate Activity” link, the certificates are listed according to the date they were acted upon.