



**Report on  
Payment in Lieu of Taxes Programs (PILOTs)  
for  
Affordable Housing Complexes**

Prepared for the

**Alliance for Housing Solutions**

by

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## **PURPOSE**

This report presents a summary of research, commissioned by the Alliance for Housing Solutions, on Payment in Lieu of Taxes Programs (PILOTs) for affordable housing Complexes. It provides information on PILOT programs in other communities. A PILOT is a payment made to compensate a local government for some or all of the property tax revenue that it loses because the affordable housing project is exempted from local property taxes. The fee is in recognition of services provided to the affordable housing complexes by the locality. The purpose of the research was to explore PILOT programs as one approach Northern Virginia jurisdictions could use to lower real estate tax bills on committed affordable rental units.

## **Alliance for Housing Solutions (AHS)**

The Alliance for Housing Solutions is a 501(c)(3) nonprofit organization working to increase the supply of affordable housing in Arlington County and Northern Virginia through research, public education, and advocacy.

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## Introduction

**ISSUE:** Real estate tax bills can be a major operating expense for owners of committed affordable housing rental units. Money spent to pay real estate taxes is money that cannot be used to lower rents, provide services to lower-income renters, and/or keep the units in sound condition.

Given that local, state and federal governments invest public money to maintain or build committed affordable rental units, it seems counterproductive to tax such units in the same ways that for-profit units are. Rents for committed affordable units cannot be raised to market rate levels, and affordable housing developments have higher operating costs due to increased personnel needs in property management for compliance with regulations (e.g. tax credits) and site management (tenant screening).

There are several ways to lower real estate tax bills on committed affordable rental units:

- *Lower the property value on which the tax rate is assessed* by basing the assessment on actual income and expenses rather than on potential market rate figures, and/or by adjusting the assessment formula (for example, through variations on the capitalization [CAP] rate) to lower the assessed value of a property.
- *Establish a Payment in Lieu of Tax (PILOT) program*, in which the taxing body and the owner of a committed unit agree on a payment in lieu of taxes to compensate the local government for the services provided to the affordable housing complex.
- *Waive taxes on units owned by a non-profit corporation.*

There are on-going efforts at the General Assembly level to require local tax assessors to assess affordable rental units on the basis of actual income and expense figures.

AHS commissioned research to identify how other communities have used PILOT programs to determine real estate tax bills on committed affordable rental units. The purpose of the research, in conjunction with other research undertaken by AHS, was to identify approaches Northern Virginia jurisdictions could use to lower real estate tax bills on committed affordable rental units.

## National Findings

In 2007 a nonprofit, the Stewards of Affordable Housing for the Future (SAHF),<sup>1</sup> conducted a national survey on tax exemption and tax assessment policies related to affordable housing Complexes and Payment in Lieu of Taxes Programs (PILOTs). The 2007 survey and supplemental research found that over 60% of states authorize localities to exempt affordable housing Complexes from local property taxes if they are owned by nonprofits or, in some cases, for-profits.

Sixteen of those, e.g., Maryland, Pennsylvania and New York, also authorize PILOT agreements for the owners to pay a fee in recognition of the services provided to the affordable housing complexes by the localities. Montgomery County has operated its PILOT program for over 18 years and currently provides full or partial tax exemption for over 6,700 apartments serving low and moderate income households.

Of the 16 state PILOT laws identified, only half applied to nonprofits. The other laws were restricted to housing authorities and/or for-profit owners. The eight states with PILOT legislation applicable to nonprofits are: Indiana, Maryland, Michigan, New Jersey, New York, Pennsylvania, South Carolina, Tennessee and Texas. It is possible that other states have such legislation but research did not uncover any additional PILOT programs.

The survey<sup>2</sup> provides a wealth of information on tax exemption, tax abatement, PILOTS, and offers significant detail on assessment methods. The results of the survey are summarized (Attachments 1 & 2) providing added detail, based on my own research, on policies in Kentucky, Maryland, Massachusetts, New Jersey, Texas, and Virginia. Attachment 1 provides a summary for each state with citations and web links; Attachment 2 provides a brief description of terms of the exemptions and PILOTs. The full [SAHF 2007 Tax Survey](#) results should be read to ensure a thorough understanding of all SAHF findings.

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<sup>1</sup> SAHF is a 501(c) (3) network of nine social enterprise nonprofits. SAHF's members provide affordable rental homes for 90,000 low and moderate income households in 50 states, the District of Columbia, Puerto Rico, and the Virgin Islands. There are two SAHF members operating in Arlington, Retirement Housing Foundation (The Carlin) and Volunteers of America (Mary Marshall Assisted Living Residence).

<sup>2</sup> The full results of the Tax Survey can be found online at: <https://sahf.dabbledb.com/page/propertytaxsurvey citationsweblinks/nRkNAiGG#>.

## Local Programs

The table on the next page shows some of the key program elements, with details shown for a few of the PILOT programs serving nonprofits. Despite the fact that so many states have programs, it was difficult to actually find laws or program staff contacts.

### Program Design

***Types of Developers:*** PILOT programs can be designed to serve nonprofits, for-profits, housing authorities, and/or partnerships with nonprofits as the managing partners. Many states limit PILOTs to housing authorities. Others expand PILOTs to for-profits sometimes for use as incentives for economic development. A program can also be limited to serving nonprofits and partnerships with nonprofits as the managing partners.

***Affordability Requirements:*** The affordability requirements apply to the number of units being set aside for the tax reduction. PILOT program requirements vary widely, but the Shelby County/Memphis, TN program shows how they can be targeted to meet a jurisdiction's priorities. That program specifies that 20% of the project's units must be occupied by households whose income are below 50% of median or 40% or more of the units must be occupied by households whose income are below 60% of median.

### ***Maximum Amount of Property Tax Reduction:***

*Montgomery County:* The Maryland state law (Attachment 3) specifies that it is up to the local jurisdiction to determine what the PILOT payment will be. Montgomery County's PILOT regulations provide different PILOT payments for different types of structures, populations served, and types of ownership entities:

“COMCOR 52.18M.01 – B. Affordable rental housing units owned or controlled by the Housing Opportunities Commission.

2. The PILOT may allow up to a 100 percent reduction of the real property tax liability.”

“COMCOR 52.18M.01 – F. Other rental housing.

2. Except as allowed in Subsection 3, the PILOT allowed is: a) for each affordable rental housing unit is equal to the average Montgomery County homeowner tax credit authorized under Section 9-104 of the Tax-Property Article of the Maryland Annotated Code; or b) the percentage reduction in real property taxes allowed by the PILOT is 80 percent in the first through fifth years, 70 percent in the sixth year, 60 percent in the seventh year, 50 percent in the eighth year, 40 percent in the ninth year, and 30 percent in the tenth year, thereafter the PILOT expires.

## Payment in Lieu of Taxes Programs (PILOTs)

### Program Elements

JURISDICTION	Eligibility Requirements		Tax Relief Provided		
	Type of Developer <sup>1</sup>	Affordability Level	Maximum Amount	Number of Years	Declining over time
Montgomery County, MD	N, P, F, HA	Below 60% AMI <sup>2</sup>	Yes, up to 100% of taxes (See page 2 and 4)	Varies - For limited number of specialized nonprofits, <sup>4</sup> PILOTs may be renewed.	May (See page 2 and 4.)
Shelby County/ Memphis, TN	N, P, F, HA	20% of units below 50% AMI or 40% of units below 60%AMI	Half of the pre-development assessment (All properties must be new construction or have substantial rehabilitation.)	10 years	No
Village of Valatie, NY	P <sup>3</sup>	Below 60% AMI	100%; PILOT payment of \$450/ unit/ year	15 years, renewable for up to 25 years	No

<sup>1</sup> N = Nonprofit; F = For-profit, HA = Housing Authority; P = Partnership with a nonprofit as managing partner

<sup>2</sup> AMI = Area Median Income

<sup>3</sup> Contract found online is with a nonprofit in partnership with a for-profit.

<sup>4</sup> The Department of Housing and Urban Development (HUD) defines a Community Housing Development Organization or CHDO (pronounced cho'do) as a private nonprofit, community-based service organization whose primary purpose is to provide and develop decent, affordable housing for the community it serves. It must be certified as meeting specific HUD criteria.

The table above draws from:

- Attachment 4: Montgomery County, MD – PILOT Regulations
- Attachment 5: Memphis, TN – PILOT Program Requirements
- Attachment 6: Village of Valatie, NY – PILOT Contract

3.The PILOT may allow up to a 100 percent reduction of the real property tax liability for a property in which a HUD-designated community housing development organization (CHDO) is the owner, developer, or sponsor of the project.”

*Shelby County:* The PILOT payment uses a tax payment on an assessment fixed at half of the pre-development assessment, which provides a solid incentive for rehabilitation projects and significant incentive for new construction projects. Their PILOT program is operated primarily as an economic development tool.

*Village of Valatie:* The PILOT payment of \$450 in the contract was to cover the full amount of the property taxes. So long as the tax exemption remained in effect, the rents charged could not exceed whatever is allowed by law.

***Initial Number of Years of Tax Reduction and Renewability:***

*Montgomery County:* The PILOT program does not have a monitoring staff. The number of years of the monetary benefit is tied to the regulatory loan. If that is 40 years, the benefit is 40 years. It may be renegotiated at the end of that term if some of the units in the project are being recommitted to another period of affordability.

*Shelby County:* The term is 10 years. It cannot be renewed without a new PILOT application and additional new construction or substantial rehabilitation.

*Village of Valatie:* The contract is for 15 years and is renewable for up to 25 years

***Amount of Tax Benefit Steady or Declining over Time:***

*Montgomery County:* In many cases, the amount remains unchanged, e.g. for the CHDO which receives the full tax exemption. In others, as noted on page 2 above, the amount can decline over time.

*Shelby County:* The amount does not decline.

*Village of Valatie:* The amount does not decline.

**Benefits of PILOT Programs for Affordable Housing Complexes**

*Lower property acquisition costs:* By allowing a property to pay debt service on a larger loan, a PILOT reduces the size of the down payment and subsidy needed to acquire the property.

*Long term fiscal stability:* When a property is free of paying full real estate taxes, it could:

- maintain lower rents,
- better meet the property’s long and short term maintenance needs,
- provide additional committed affordable units or units with deeper subsidies,
- provide more services to residents,
- pay off its deferred development fee faster, and/or
- pay its soft loans off more quickly with that saved revenue.