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Pennsylvania's Housing Trust Funds: Current Conditions and Opportunities for the Future

Prepared by **REINVESTMENT FUND & REAL ESTATE STRATEGIES, INC.**

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Introduction

Since the early 1990s, Pennsylvania counties have had the option to establish local affordable housing trust funds using increased fees on mortgage and deed recordings. The Pennsylvania Housing Finance Agency (PHFA) believes that this funding source is an important resource available to local governments to leverage other state, federal and private funds to enhance a county's ability to meet the affordable housing needs of its residents. PHFA does not have statutory authority over these funds, which are established and governed solely at the county level, but the Agency is interested in understanding how they are being used throughout the Commonwealth 25 years after the earliest funds began operations. The last progress report on local affordable housing trust funds was completed in 2005. PHFA has retained Reinvestment Fund (RF) and Real Estate Strategies, Inc. (RES) to provide updated information on the status of local affordable housing trust funds in Pennsylvania.

History of the Optional Affordable Housing Funds Act

The Optional Affordable Housing Funds Act, formerly known as Act 137 of 1992, enabled Pennsylvania counties to raise additional revenues to be used for affordable housing needs by increasing fees charged for the recording of deeds and mortgages. The authorizing legislation required that these additional funds be expended for projects and programs--approved by the appropriate governing entity of the county--that increase the availability and quality of affordable housing to resident households with incomes below the county median. The initial legislation applied to all classes of counties except counties of the first class (Philadelphia).

Act 49 of 2005 repealed and replaced Act 137 of 1992, further codifying the Affordable Housing Funds Act by adding a provision that permitted "cities of the first class" (Philadelphia is both a city and a county of the first class) to establish an affordable housing fund using fees on the recording of deeds and mortgages. Cities of the first class are allowed to use these funds for housing activities serving households with incomes up to 115% of the County median. Act 49 of 2005 also explicitly allows first class cities certain specific uses and targeting of the affordable housing funds.

The provisions related to affordable housing funds in all other counties remained the same as provided in Act 137. With the exception of the income limit, there is no indication that the conditions specifically called out as allowable for cities of the first class would not also be permissible for the other counties. The language of this 2005 authorizing legislation is included in PA Consolidated Statutes Title 53 Chapter 60: Optional Affordable Housing Funding.¹ The affordable housing funds established pursuant to this legislation are referred to colloquially as "Act 137 funds" or "local housing trust funds."² These terms will be used interchangeably throughout this report.

¹ <https://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=53&div=0&chpt=60> (See Appendix I for text of the enabling legislation.)

² Each county has a formal name for its fund, and these vary.

Approach

RF/RES initially proposed conducting a web-based survey of Act 137 fund administrators in Pennsylvania counties that have enacted local affordable housing trust funds. An effort was made during Summer 2019 to contact each county by phone, confirm whether or not the County has an Act 137 local affordable housing trust fund program, identify the correct contact person, and speak with that person to confirm contact information and request their participation in the upcoming web survey.

It quickly became apparent that ***in most counties, familiarity with the Act 137 program is extremely limited. There was confusion about what the RF/RES callers were inquiring about, whether the county had a program, which department or departments were involved, and who the key contact person would be.***

RF/RES reported this difficulty to PHFA. PHFA representatives confirmed that their staff had also had difficulty identifying Act 137 contacts in the counties. The experience of both the Agency and the consultant team called into question the effectiveness of a web survey approach.

RF/RES proposed an alternative approach to the analysis. Senior consultants would reach out to counties beginning with the Recorder of Deeds offices and if an affordable housing fee is collected, “follow the money” to try and identify the correct contact. Once a contact was identified, RF/RES scheduled and conducted a 50-60 minute structured interview. Questions were reviewed and approved in advance by PHFA. The consultant team’s goals for the interview process included:

- Gathering basic information about the operations and performance of Act 137 Funds across the Commonwealth;
- Ascertaining challenges counties encounter in the administration of these funds;
- Identifying best practices in managing the funds;
- Considering potential roles for PHFA in facilitating the use of Act 137 funds in supporting affordable housing activities across Pennsylvania.

In early 2005, the PHFA released a study analyzing the status of the Act 137 funds that had been established to date, with a focus on administrative structure.³ At that time 49 of 66 eligible counties (Philadelphia was the only ineligible county at that time) had established the funds. Through the calling effort and on-line research, RF/RES was able to determine that ***in 2019, 53 of Pennsylvania’s 67 counties have Act 137 funds, with one additional county ready to enact an ordinance establishing a fund.***

All counties of the first, second, second-A, third, fourth and fifth classes have Act 137 funds. The majority of sixth class counties have the funds, along with two seventh class counties and one eighth class county. Thirteen counties do not have Act 137 local housing trust funds. Table 1, on the following page, provides a list of the 67 Pennsylvania counties by class. Counties shown in bold type currently have Act 137 funds; counties without Act 137 funds are greyed out. Bedford County is in the process of establishing a fund. RF/RES was ultimately able to conduct 30 interviews, including 29 interviews with counties that are operating Act 137 funds and one interview with Bedford County, which is in the process of establishing a fund (study participants highlighted in green). The 29 interviews represent 55% of the 53 counties with funds and include counties of most classes. A copy of the interview questions is included as Appendix B.

³ <http://housingtrustfundproject.org/wp-content/uploads/2011/10/2005-report-on-the-progress-of-Act-137.pdf>

TABLE 1: PENNSYLVANIA COUNTIES WITH ACT 137 AFFORDABLE HOUSING TRUST FUNDS (BOLD), BY CLASS
 (The counties interviewed for this study are highlighted in green)

Class	Population	Counties	Class	Population	Counties
First Class	1,500,000 or more	Philadelphia	Sixth Class	45,000 to 89,999	Armstrong
Second Class	800,000 to 1,499,999	Allegheny			Bedford*
Second Class A	500,000 to 799,999	Bucks			Bradford
		Delaware			Carbon
		Montgomery			Clarion
Third Class	210,000 to 499,999	Berks			Clearfield
		Chester			Clinton
		Cumberland			Columbia
		Dauphin			Crawford
		Erie			Elk
		Lackawanna			Greene**
		Lancaster			Huntingdon
		Lehigh			Indiana
		Luzerne			Jefferson
		Northampton			McKean
		Westmoreland			Mifflin
		York			Perry
Fourth Class	145,000 to 209,999	Beaver			Pike
		Butler			Somerset
		Cambria			Susquehanna
		Centre			Tioga
		Fayette			Venango
		Franklin			Warren
		Monroe			Wayne
		Schuylkill	Seventh Class	20,000 to 44,999	Juniata
		Washington			Snyder
Fifth Class	90,000 to 144,999	Adams			Union
		Blair			Wyoming
		Lawrence	Eighth Class	Less than 20,000	Cameron
		Lebanon			Forest
		Lycoming			Fulton
		Mercer			Montour
		Northumberland			Potter
					Sullivan

*Bedford County is in the process of implementing a fund

**Greene County appeared in the 2005 study as having a fund, but County representatives said they do not have one in 2019

Key Features of PA Affordable Housing Trust Funds

Most counties fund local affordable housing trust funds solely with mortgage and deed recording fees, but some increase funding capacity by having loan repayments flow back into the fund.

Table 2 (see pp. 5) summarizes the revenues that flowed into each interviewed county's fund over the last full fiscal year as well as the source of the funds and the current fund balance. All Act 137 local housing trust funds receive a dedicated portion of deed and mortgage fees collected by the county Recorder's office. These funds are typically transferred into the Act 137 fund on a rolling basis. Some counties supplement these receipts with loan repayments from first-time homebuyer's mortgage and closing costs, soft second programs, or from loans extended to affordable housing developers. One county supplements these sources with a charge to cover legal fees at loan closings (noted as "other program income"). Another county identified interest on the Act 137 fund balance as an additional source of revenue.

Counties vary in their approach to spending down, maintaining or building up fund balances.

Although the amount of fund revenues reported for the last full fiscal year roughly track county class/population, the balances currently maintained in the funds vary widely. The interviews revealed a variety of approaches to accumulating and disbursing funds including:

- Disbursing all funds each year
- Disbursing all funds, but maintaining a targeted cushion for emergency use
- Reserving some or all funds either annually or for a specified period to build up a balance for use for LIHTC or other affordable housing production opportunities

Primary responsibility for evaluating and recommending potential uses of Act 137 funds most typically is found in a county's planning/development department. Some counties have placed this role with other departments or organizations.

In each county, multiple departments have roles in the Act 137 Fund. The Recorder's Office collects the fee on mortgage and deed recordings and forwards these funds to the Finance Department. Administrative responsibility is housed most typically in Planning and Development departments (41% of the counties interviewed), but is also located in other departments or external organizations including: Housing, Community Development, Social Services, Redevelopment Authority, Housing Authority, a housing non-profit, or an outside consultant. Table 2 (see pp. 5) lists the organization in each county interviewed that has the primary responsibility for reviewing and recommending use of the Act 137 funds.

TABLE 2: SELECTED CHARACTERISTICS OF INTERVIEWED COUNTY ACT 137 FUNDS

Interviewed Counties		Primary Administrative Organization	Advisory Board	Most Recent FY Revenue	Revenue Sources*	Fund Balance	Application Process
Second Class A	Bucks	Housing Services Department		\$1,100,000	1	\$850,000	Annual applications
	Delaware	Housing and Community Development		\$873,727	3	Disperse all	Annual applications
Third Class	Berks	Redevelopment Authority	Redevelopment Authority Board	\$528,662	1	Disperse all	Annual applications
	Chester	Community Development		\$1,200,000	1	\$250,000	Bi-annual applications
	Cumberland	Housing and Redevelopment Authority		\$190,000	2	Disperse all	Rolling
	Dauphin	Housing Administrator consultant	Yes	\$378,057	2	\$430,000	Rolling
	Erie	Planning and Community Development	Yes	\$125,000 to \$150,000	1	Disperse all	Annual applications
	Lancaster	Lancaster Housing Opportunities Partnership		\$405,000	1	\$200,000	Rolling
	Lehigh	Community and Economic Development	Yes	\$484,970	1	\$1,000	Application cycle every 2-3 years
	Luzerne	Office of Community Development		\$231,504	1	\$1.863 million	Rolling
	Northampton	Community and Economic Development		\$239,000	1	\$486,534	Annual applications
	Fourth Class	Beaver	Community Development Program		\$90,000	1	\$70,000
Cambria		Redevelopment Authority	Redevelopment Authority Board	\$105,326	4	\$105,033	Rolling
Centre		Planning and Community Development		\$176,773	2	\$620,000	Rolling
Schuylkill		Schuylkill Community Action	Yes	\$189,329	1	\$10,000	Annual RFP
Fifth Class	Adams	Planning and Development	Yes	\$132,000 to \$144,000	1	\$800,000	Rolling
	Blair	Department of Social Services	Yes	\$96,000	1	Have balance	Rolling
	Lebanon	Redevelopment Authority		\$200,000 to \$250,000	1	Disburse almost all	Rolling
	Lycoming	Planning and Community Development (3 more departments)		\$73,000	1	\$278,000	Rolling
	Northumberland	Planning Department	Yes	\$60,000 to \$80,000	1	\$100,000	RFP for rolling applications
Sixth Class	Armstrong	Planning and Development		\$40,730	1	not reported	Primarily a match for other funding
	Carbon	Planning and Development		not reported	1	not reported	Rolling
	Clearfield	Planning and Community Development		\$48,000	1	\$105,848	Annual RFP
	Clinton	Planning		\$26,100	1	\$82,000	Rolling
	Columbia	Non-profit development corporation		est. \$96,000	1	\$100,000	Rolling
	Crawford	Planning		est. \$60,000	1	\$70,000	Part of annual County budget process
	Elk	Planning		\$23,972	1	\$92,456	Rolling
	Indiana	Office of Planning and Development (includes Redevelopment Authority)	Redevelopment Authority Board	\$41,000	1	\$100,000	Rolling
Eighth Class	Montour	Housing Authority	Housing Authority Board	\$30,057	1	Not reported	Rolling

*Revenue Source Key: 1—Recording fees only
 2—Recording fees plus loan repayments
 3—Recording fees plus loan repayments plus program income
 4—Recording fees plus interest

Final consideration and approval of funding applications typically rests with County Commissioners although one county relies on approvals from the County executive, and some counties delegate authority to professional staff to approve and fund certain program applications. For counties where the program is operated by a Housing and/or Redevelopment Authority, the Authority Board typically approves recommended fund disbursements, which in some cases receive final approval from the County Commissioners.

Most counties accept applications on an informal or rolling basis.

The majority (59%) of counties interviewed accept applications on a rolling or ad hoc basis, rather than holding a formal funding cycle. Other approaches include issuing a request for proposal (RFP) with a deadline or maintaining a formal annual application cycle. Several counties integrate requests for Act 137 funding with requests for HUD, CDBG and HOME funding or tie the process to the county’s annual budget cycle. For counties with first-time homebuyer or homeowner repair programs, applications are accepted on an ongoing basis.

Nearly one in four counties has a housing committee, housing trust fund advisory board or other entity tasked with reviewing staff funding recommendations.

In general, the county contacts interviewed describe their affordable housing trust fund as “a program of the County Commissioners”, because those elected officials have the ultimate decision-making responsibility for directing the use of the funds. Eleven of the county contacts interviewed referenced either a Housing Trust Fund Board or an Advisory Committee that was tasked with approving projects for recommendation to the County Commissioners.

Few counties have formal reporting requirements for Act 137 activities in place; reporting practices vary widely.

Title 53 Chapter 60 does not specify any reporting requirements for Act 137 funds, either from recipients of the funds or from a county itself. The majority of the Act 137 contacts interviewed noted that there are no Act 137 reporting requirements in place in their counties. For counties where some reporting takes place, the interviews revealed a range of approaches, including:

Reporting from fund recipients:

- Requiring inspection reports to document completion of work
- Requiring regular (quarterly, semi-annual, etc.) reports of activities funded by grant

Reporting about Act 137 Fund activities:

- Providing information about Act 137 expenditures in HUD Consolidated Plan, Annual Action Plan and CAPER documents;
- Documenting Act 137 activities in Board or Advisory Committee meeting packets and reports;
- Preparing an annual report for County commissioners;
- Maintaining files of closed loans;
- Requesting file review from external auditors.

Although new affordable housing production, assistance to first-time homebuyers, and home rehabilitation/repair are typical uses of Act 137 funds, counties use their housing trust funds to support a wide range of affordable housing efforts.

Title 53 Chapter 60 includes the following language about activities eligible to be funded by a local affordable housing trust fund:

§ 6013. Affordable housing efforts in counties.

"Affordable housing effort" as used in this subchapter is any program or project approved by the governing body of the county which increases the availability of quality housing, either sales or rental, to any county resident whose annual income is less than the median income of the county and includes:

- (1) Providing local matching funds to secure National Affordable Housing Act of 1990 HOME funds.*
- (2) Assisting or supporting housing efforts by the Pennsylvania Housing Finance Agency and by commercial banks and thrift institutions.*
- (3) Supporting soft second mortgage programs.*

Table 3 summarizes the use that at least three of the 29 counties interviewed are funding with Act 137 dollars.

TABLE 3: COMMON USES OF ACT 137 FUNDS

Use	Counties	Percent
New affordable housing production	17	59%
First time homebuyer closing cost and down payment assistance	16	55%
Home rehabilitation and repair	16	55%
Federal/state match or leverage	14	48%
Other emergency assistance utilities/repairs	10	34%
Affordable housing operations and maintenance	9	31%
Homeless services	8	28%
Shelter operations and maintenance	8	28%
Blight program/rehabilitation	7	24%
Habitat Homeownership	7	24%
Housing counseling	6	21%
New shelter production	5	17%
Emergency rental assistance	4	14%
Home accessibility	4	14%
Other rental assistance	3	10%
Fair housing	3	10%

Source: RF/RES interviews of 29 counties with Act 137 funds

More than half of the counties direct funding to:

- **New housing production.** For counties with more resources, this can include either grants or loans for pre-development or gap financing of Low Income Housing Tax Credit (LIHTC) projects. Less populous counties tend to contribute to smaller public or not-for-profit sponsored efforts to create units by rehabbing small multi-family buildings or single-family homes.

- **Soft second mortgages to assist income-qualified first-time homebuyers with down payment and closing cost assistance.** Some counties offer a phased forgiveness schedule that results in this assistance transitioning from a loan to a grant over time. Others specify events (sale or refinance of the home, when the home is no longer a primary residence, etc.) that trigger repayment of the loans and create a revolving source of revenue for the Act 137 fund. Typically, counties with this type of program also dedicate Act 137 dollars to housing counseling organizations providing mandatory training for prospective homebuyers.
- **Home rehabilitation and repair** for either homeowners or for non-profits renovating homes as affordable housing (sales and rental). In particular, faith-based home repair groups were cited as a particularly good way to leverage Act 137 funds due to their reliance on volunteer labor. According to individuals interviewed, the counties cannot direct federal dollars to these faith-based groups, so it is helpful to be able to use the local affordable housing fund dollars for this purpose.

Nearly half (48%) of counties interviewed mentioned using the Act 137 funds to match, leverage or demonstrate investment for Pennsylvania and federal programs including PHARE, HOME, USDA Rural Development (RD), and Continuum of Care. Other uses include a variety of assistance for homeless individuals and households including service provision, homelessness prevention, shelter operations and the production of new shelter options.

Other activities funded by one or two counties include weatherization, home inspection, Main Street/Elm Street programs, legal services, sewer lateral/tap fees, housing/land trust operations, services to ex-offenders, and mortgage delinquency and default prevention.

Philadelphia and Allegheny County

Both Philadelphia, the only first class county in Pennsylvania, and Allegheny County, the only second class county, have housing trust funds, but these counties did not participate in the interview process.

- Philadelphia—as a city and county of the first class—was excluded from the original Act 137 enabling legislation. The amending legislation approved in 2005 specifically enabled Philadelphia to establish a local housing trust fund supported by a fee on deed and mortgage recording. Philadelphia regularly issues two-year reports.⁴ In FY 16/FY 17, the HTF provided more than \$26.9 million to the City’s housing programs. Approximately 90 percent of the households served during this two-year period had household incomes below 30% AMI. Since 2005, more than \$138 million in HTF revenue have been used for affordable housing purposes in the city. Affordable housing advocacy groups in Philadelphia have been conducting a campaign to expand the funding flowing into the housing trust fund. In September 2018, Philadelphia City Council and Mayor Kenney committed to a \$19 million contribution to the housing trust fund to supplement the receipts from deed and mortgage recording fees.
- The Allegheny County housing trust fund is administered by the county’s Department of Economic Development. According to a news report the fund has annual receipts of between \$750,000 and \$1 million.⁵ Seventy percent of the Act 137 receipts are distributed by the economic development department, 25 percent go to the county’s Department of Human Services (homeless services) and the

⁴ <https://www.phila.gov/media/20190502112941/housing-trust-fund-report-2016-17.pdf>

⁵ <https://www.post-gazette.com/local/city/2016/10/17/Push-for-Pittsburgh-housing-fund-cites-Philadelphia-Housing-Trust-Fund-as-model/stories/201610170002>

remaining five percent cover administrative costs related to deed and mortgage recording. Allegheny County Economic Development bundles the Act 137 funds with CDBG, HOME and PHARE funding into the Allegheny Housing Development Fund.⁶ The department publishes a notice of AHDF funding availability, but accepts applications on a rolling basis. Funds are available for new construction or rehabilitation of rental and homeownership units targeting households with incomes below 80% AMI.

Key Opportunities to Enhance PA Local Affordable Housing Trust Funds

Through the interview process, RF/RES identified a number of findings which may provide direction for future initiatives related to the Act 137 funds.

Maintaining flexibility is a critical priority for PA Local Housing Trust Funds. County representatives were very enthusiastic about Act 137's flexibility and ease of operation. It allows counties to tailor funding to their specific needs.

Compared to most federal and state funding sources, Act 137 has minimal requirements and regulations. Respondents emphasized that they appreciate the ability to be responsive to changing conditions as well as the efficiency in administering the program. Individuals commented about the ability to use the funding in situations that were not eligible for HUD funding or where other program requirements limited the scope of what could be done. For example, with Act 137, there are no environmental review regulations or specific scope checklists for home repairs, and counties can fund faith-based organizations. Several respondents noted that Davis-Bacon wage rules do not apply to Act 137 activities. Although many counties use the HUD 80% income limit consistent with HOME guidelines, the ability to serve households with incomes up to the county median is a welcome option.

Identifying alternative capitalization streams will be important for PA Local Housing Trust Funds future viability. Funding levels are decreasing, and many counties have reached the maximum fee level allowable.

In most counties, the amount of funding available through the Act 137 funds has decreased from pre-2008 levels, in many cases by half. There are two reasons for this decline: 1) the statutory limitations in the fee that can be charged, and 2) a post-recession decline in real estate transaction volume compared to mid-2000 levels. The maximum Act 137 fee a county can charge is limited to 100% of the base deed and mortgage recording fee that was in place as of the date specified in the statute:

- For a city of the first class: "The [Act 137] fee levied by a governing body of a city of the first class . . . shall not exceed 100% of the amounts charged by a city of the first class for recording deeds and mortgages and other related documents on January 31, 2005."
- For all other counties: "the additional [Act 137] fees levied by a governing body of a county . . . shall not exceed 100% of the amounts charged on February 12, 1993."

The statute does not include any provision for indexing the fee maximum for inflation. Only four of the 29 counties interviewed could say definitively that their fee was **not** at the maximum allowable. Thirteen counties confirmed that their fees were at the maximum. The remaining county representatives were "not sure". This uncertainty results from both the age of the program and the divided responsibility between revenue collection (Recorder of Deeds), approvals (typically County Commissioners) and affordable housing technical

⁶ <https://www.alleghenycounty.us/economic-development/developers/ahdf-financing.aspx>

staff. Over time, the maximum fee level has decreasing purchasing power at a time when affordable housing production costs are rapidly increasing.

For all counties interviewed, the dollar amounts flowing into the Act 137 funds during the booming housing market pre-2008 were substantially higher than today's levels, even with the overall economic recovery in place. Because the recording fees are flat charges rather than a percentage value of a property's sales price/mortgage amount, Act 137 revenues are sensitive to transaction volume.

This situation is not unique. In similar programs in states across the country the reliance on fees tied to real estate transactions puts a cap on how large a county's HTF can get, and also tends to deplete the size of the resource when it's most needed, i.e. in an economic downturn.⁷ Finding additional revenue streams to capitalize PA's Housing Trust Funds could go a long way to ensuring their long term viability and effectiveness.

Building the size and capacity of PA Local Housing Trust Fund administrative staff can help counties use these funds more effectively to produce new affordable housing.

One challenge, particularly for less populous counties, is how to build up funds to make a meaningful contribution to a bricks and mortar affordable housing development. In many cases, the Act 137 funds have supported ongoing programs operated by either the County itself or not-for-profit organizations. In cases where the recording fees are at the maximum allowable level, diverting Act 137 dollars to create a larger pool of funds for production will require cutting off or reducing funding to these long-time recipients. Several interviewees believed that their knowledge of how to leverage funding sources was limited and that they and/or their staff did not have the background to critique project pro formas or "speak the same language" as the developers who approach them for project funding.

Staffing constraints limit the ability to serve households in first-time homebuyer and repair programs.

In some counties, a single county staff member or consultant handles all aspects of a first-time homebuyer down payment and closing cost assistance program and/or home repair programs. For the homebuyer programs, this involves soliciting applications, collecting and reviewing documents, income-qualifying the households and underwriting soft second loans. For repair programs this can involve reviewing applications, advising homeowners, creating bid specifications, awarding the work and supervising inspections. Staff capacity in some cases limits the ability of the program to meet demand, even if funds are available for additional loans. Some interviewees also noted that staffing constraints limited their ability both to conduct outreach about the availability of funds and to publicize the accomplishments of the Act 137 housing trust fund in their county.

The Act 137 program is relatively informal in many cases, and significant institutional memory resides with one or two long-time staff members. Technical assistance and training for county staff with less experience with their Housing Trust Fund can help mitigate the impact of generational staffing turnover.

Individuals interviewed with long involvement in their county's program did not believe that additional training and technical assistance would be useful to them. However, veterans of the program acknowledged a role for training and professional development for new staff that would eventually take over the program. In

⁷ Schwartz, A. F. (2014). *Housing policy in the United States*. Routledge.

interviews of individuals with fewer years of involvement, it became apparent that program data, procedures and information was not always effectively transitioned from previous staff members.

The landscape is ripe for a PA Local Housing Trust Fund Community of Practice, or some more formalized, information/knowledge sharing network. Respondents expressed a strong desire to learn how other counties use their Act 137 funds and believe PHFA can play a role to facilitate this information exchange. The same challenges that made it difficult for PHFA and RF/RES to identify Act 137 program contacts in many counties are faced by individual county housing professionals trying to get input on the program from other practitioners.

Best Practices

RF/RES asked interviewees whether there were aspects of their local housing trust fund operations that could be best practices for other counties. Respondents recommended the following practices:

- Use two-tier decision-making for funding awards. Staff in the counties that have advisory committees appreciated having another set of eyes on funding applications and recommendations prior to forwarding them to County Commissioners.
- Structure at least some of the Act 137 disbursements as loans, rather than grants, to ensure that dollars revolve back into the affordable housing trust fund, supplementing current year mortgage and deed recording fees.
- For programs that involve applications from individual households, maintain data on the distribution of households by type, size, income, geography, etc. This can be useful over time in educating municipalities about affordable housing issues within their communities.
- Consider partnerships with organizations that rely on volunteer labor, such as Habitat for Humanity, or faith-based home repair groups, which offer a high return on investment on Act 137 expenditures.
- Use Act 137 funds to prove local “skin in the game” for state and federal programs, even if a formal match is not required.

Recommendations

The most important role for PHFA in supporting the effectiveness of county affordable housing trust funds would be **creating regular opportunities for information exchange between Act 137 contacts** in the counties. This could include holding an annual roundtable, coordinating Act 137-related panels at PHFA conferences and/or the Housing Alliance Homes Within Reach conference, sponsoring an online blog/forum, or designating a PHFA staff person as the information specialist for this program.

Given the challenge of identifying program contacts in each county for this study, it would be valuable to establish **annual outreach to the counties to confirm/update program contacts** and perhaps to **establish some voluntary reporting on program achievements over the previous fiscal year**. This information could help to inform programming for a roundtable or conference panel on Act 137 issues.

PHFA should consider **advocacy for a statutory increase in the allowable Act 137 fee** so that the program's ability to support affordable housing efforts does not continue to decline over time. Thought needs to be given about how Act 137 and the new Act 152 (2016 County Demolition Fund) fees could best interact. Public officials may be reluctant to both put an Act 152 fee in place and simultaneously raise the Act 137 fee; briefing materials and talking points may assist them in understanding the advantages of each program and communicating effectively with county residents.

PHFA should **proceed with caution in proposing any significant new administrative requirements** for Act 137. The clear message received from the interviews is that flexibility is part of the appeal of this program. Any regulations or additional requirements may be viewed unfavorably, although as noted above, there is a role for the Agency in establishing voluntary reporting as part of the information exchange function.

APPENDIX I: PA Housing Trust Fund Enabling Legislation

<https://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=53&div=0&chpt=60>

CHAPTER 60

OPTIONAL AFFORDABLE HOUSING FUNDING

Subchapter

- A. Preliminary Provisions
- B. Affordable Housing Programs and Funding in Counties
- C. Affordable Housing Programs and Funding in Cities of First Class

Enactment. Chapter 60 was added July 14, 2005, P.L.280, No.49, effective in 60 days.

Special Provisions in Appendix. See section 3 of Act 49 of 2005 in the appendix to this title for special provisions relating to continuation of prior law.

Cross References. Chapter 60 is referred to in section 204 of Title 26 (Eminent Domain).

SUBCHAPTER A

PRELIMINARY PROVISIONS

Sec.

- 6001. Scope of chapter.
- 6002. Legislative purpose.
- 6003. Definitions.

§ 6001. Scope of chapter.

This chapter deals with optional affordable housing funding.

§ 6002. Legislative purpose.

The General Assembly intends to provide a method for counties and cities of the first class to raise revenues at the local level to enable residents to purchase, rent or maintain quality residential housing.

§ 6003. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"County." A county of the second, second A, third, fourth, fifth, sixth, seventh or eighth class. The term does not include any county of the first class.

"National Affordable Housing Act of 1990." The Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625, 42 U.S.C. § 12701 et seq.), as amended.



SUBCHAPTER B
AFFORDABLE HOUSING PROGRAMS
AND FUNDING IN COUNTIES

Sec.

- 6011. Affordable housing programs fee in counties.
- 6012. Disposition of proceeds in counties.
- 6013. Affordable housing efforts in counties.

§ 6011. Affordable housing programs fee in counties.

(a) General rule.--The governing body of each county may, by ordinance, increase the fees charged by the recorder of deeds for recording deeds and mortgages under the act of June 12, 1919 (P.L.476, No.240), referred to as the Second Class County Recorder of Deeds Fee Law, or the act of April 8, 1982 (P.L.310, No.87), referred to as the Recorder of Deeds Fee Law.

(b) Limitation.--The additional fees levied by a governing body of a county under subsection (a) shall not exceed 100% of the amounts charged on February 12, 1993.

Cross References. Section 6011 is referred to in section 6012 of this title.

§ 6012. Disposition of proceeds in counties.

(a) Deposit.--Money collected as a result of the fee imposed under section 6011(a) (relating to affordable housing programs fee in counties) shall be deposited in the general fund of the county.

(b) Allocation.--Money collected as a result of the fee imposed under section 6011(a) shall be allocated as follows:

(1) At least 85% of the money collected shall be set aside in a separate account to be used to fund affordable housing efforts in the county.

(2) Not more than 15% of the money collected may be used by the county for the administrative costs associated with the affordable housing efforts.

§ 6013. Affordable housing efforts in counties.

"Affordable housing effort" as used in this subchapter is any program or project approved by the governing body of the county which increases the availability of quality housing, either sales or rental, to any county resident whose annual income is less than the median income of the county and includes:

(1) Providing local matching funds to secure National Affordable Housing Act of 1990 HOME funds.

(2) Assisting or supporting housing efforts by the Pennsylvania Housing Finance Agency and by commercial banks and thrift institutions.

(3) Supporting soft second mortgage programs.



SUBCHAPTER C
AFFORDABLE HOUSING PROGRAMS AND FUNDING
IN CITIES OF FIRST CLASS

Sec.

6021. Affordable housing programs fee in cities of first class.

6022. Disposition of proceeds in cities of first class.

6023. Affordable housing efforts in cities of first class.

§ 6021. Affordable housing programs fee in cities of first class.

(a) General rule.--The governing body of a city of the first class may, by ordinance, charge an affordable housing program fee for recording deeds and mortgages and other related mortgage documents.

(b) Limitation.--The fee levied by a governing body of a city of the first class under subsection (a) shall not exceed 100% of the amounts charged by a city of the first class for recording deeds and mortgages and other related documents.

(c) Construction.--Subsection (a) shall not limit or otherwise impact the authority of a city of the first class to alter the fees charged by a city of the first class as of the effective date of this chapter for recording deeds and mortgages and other related mortgage documents.

(Dec. 22, 2011, P.L.549, No.114, eff. 60 days)

2011 Amendment. Act 114 amended subsec. (b).

Special Provisions in Appendix. See section 4 of Act 49 of 2005 in the appendix to this title for special provisions relating to fees in first class cities.

Cross References. Section 6021 is referred to in section 6022 of this title.

§ 6022. Disposition of proceeds in cities of first class.

(a) Deposit.--Money collected as a result of the fee imposed under section 6021(a) (relating to affordable housing programs fee in cities of the first class) shall be deposited in a special fund established by a city of the first class.

(b) Allocation.--Money collected as a result of the fee imposed under section 6021(a) shall be allocated as follows:

(1) At least 85% of the money collected shall be used to fund affordable housing efforts in a city of the first class. The following apply:

(i) A city of the first class may by ordinance dedicate a portion of the funds allocated under this subsection to benefit households whose annual income adjusted for household size is equal to or less than 30% of the median income of the metropolitan statistical area including that city of the first class.

(ii) A city of the first class may by ordinance dedicate a portion of the funds allocated under this subsection to programs described in section 6023(1) (relating to affordable housing efforts in cities of first class).

(iii) A city of the first class may by ordinance define criteria for accessibility of new and existing housing for visitors or occupants who are physically disabled and establish the percentage of new construction units produced as a result of the affordable housing efforts of the city funded under this subsection that must meet the criteria.

(iv) A city of the first class may by ordinance restrict expenditure of money raised under this subchapter to those programs and projects described in section 6023.

(v) A city of the first class may by ordinance require that housing produced or rehabilitated through affordable housing efforts be priced or rented at an amount such that the purchase or rental will require the expenditure of no more than a certain maximum percentage of the gross income of the household of the purchaser or renter.

(2) Not more than 15% of the money collected may be used for the administrative costs of a city of the first class associated with the affordable housing efforts.

§ 6023. Affordable housing efforts in cities of first class.

"Affordable housing effort" as used in this subchapter is a program or project which increases the availability of quality housing, either sales or rental, to any resident of a city of the first class whose annual income adjusted for household size is less than 115% of the median income of the metropolitan statistical area including that city of the first class and includes:

(1) A program or project which increases the production of housing for sale or rent.

(2) A program or project which increases the accessibility of new and existing housing to visitors or occupants who are physically disabled.

(3) A program or project which provides grants for repair of basic systems or improvement of owner-occupied housing.

(4) A program or project which provides for the improvement of facades for owner-occupied housing.

(5) A program or project which prevents or reduces homelessness.

Cross References. Section 6023 is referred to in section 6022 of this title.

APPENDIX II: PENNSYLVANIA COUNTY HOUSING TRUST FUNDS

INTERVIEW QUESTIONS

In cooperation with the Pennsylvania Housing Finance Agency, Reinvestment Fund and Real Estate Strategies, Inc. are undertaking an exploratory study of Act 137 Affordable Housing Trust Funds (HTFs) throughout the Commonwealth. Thank you for agreeing to participate in a telephone interview as part of our research for this study. The questions and topics we would like to cover during this 50-60 minute interview are provided below.

1. Please tell us your title, and the role you play related to the HTF. What is your fund called?
2. Do you know when the HTF was established? How long have you been involved?
3. What are the sources of funds that flow into your HTF (only deed and mortgage recording fees or something else)? Do you know the amount of the affordable housing portion of the deed and mortgage recording fees? Is this the maximum allowable fee?
4. What was the annual revenue in the most recent fiscal year? Is this typical? If not, what is a typical annual funding level or range?
5. How are HTF funds distributed? (by RFP, elected official discretion, rolling applications, etc.). If the process isn't rolling, how often is there an RFP/application cycle? What is the application review and approval process?
6. What are the funding priorities for the HTF? How are they established?
7. What types of organizations are eligible to receive HTF funding?
8. What types of projects/activities does the HTF fund?
9. What was the amount of funds disbursed in the most recent fiscal year? Is this typical?
10. Are all funds flowing into the HTF disbursed the following year or does the fund build up a balance over time? If so, what is the current balance and is that typical?
11. What is the general dollar range of individual awards from the HTF?
12. Can you share examples of typical projects/programs funded? Do you have any materials describing the projects/programs funded? We would like to include several project profiles in our report. Are there projects that you consider to be notable success stories?

13. Do you have a sense of the typical proportion of HTF funding to other sources of funding in the projects your HTF supports?
14. Are there reporting requirements for recipients of HTF funds? Is the HTF required to submit an annual report or other reporting to County elected officials?
15. What are the most substantial challenges you face in administering the HTF?
16. Could you or your staff benefit from training or technical assistance to meet these challenges?
17. What are the top two or three changes you would make to make your County's HTF more efficient and/or effective?
18. Are there aspects of your HTF structure or administration that you think could be best practices for other HTFs in Pennsylvania?
19. If you have materials related to the administration of the HTF, such as RFPs, applications, written guidelines, etc. would you provide us with copies or direct us to any materials that are accessible online?
20. Could you please provide the following data:
 - Total Funds Disbursed
 - Total Number of Housing Units Created/Rehabbed/Repaired
 - Total Non-HTF Funding Leveraged

Thank you for your time and assistance!

Reinvestment Fund has published a range of reports addressing critical public policy issues—including “*HEMAP’s Enduring Impact in Pennsylvania*” and “*Evictions in Philadelphia: A Data & Policy Update*.” For details, please visit our Policy Publications site: WWW.REINVESTMENT.COM/IMPACT/RESEARCH-PUBLICATIONS



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