

**§201H-36 Exemption from general excise taxes. (a)**

*[Repeal and reenactment on June 30, 2030. L 2018, c 39, §4.]*

In accordance with section 237-29, the corporation may approve and certify for exemption from general excise taxes any qualified person or firm involved with a newly constructed, or a moderately or substantially rehabilitated, project that is:

- (1) Developed under this part;
  - (2) Developed under a government assistance program approved by the corporation, including but not limited to the United States Department of Agriculture's section 502 direct loan program and Federal Housing Administration's section 235 program;
  - (3) Developed under the sponsorship of a private nonprofit organization providing home rehabilitation or new homes for qualified families in need of decent, low-cost housing;
  - (4) Developed by a qualified person or firm to provide affordable rental housing where at least fifty per cent of the available units are for households with incomes at or below eighty per cent of the area median family income as determined by the United States Department of Housing and Urban Development, of which at least twenty per cent of the available units are for households with incomes at or below sixty per cent of the area median family income as determined by the United States Department of Housing and Urban Development; or
  - (5) Approved or certified from July 1, 2018, to June 30, 2030, and developed under a contract described in section 104-2(i)(2) by a qualified person or firm to provide affordable rental housing through new construction or substantial rehabilitation; provided that:
    - (A) The allowable general excise tax and use tax costs shall apply to contracting only and shall not exceed \$30,000,000 per year in the aggregate for all projects approved and certified by the corporation; and
    - (B) All available units are for households with incomes at or below one hundred forty per cent of the area median family income as determined by the United States Department of Housing and Urban Development, of which at least twenty per cent of the available units are for households with incomes at or below eighty per cent of the area median family income as determined by the United States Department of Housing and Urban Development; provided that an owner shall not refuse to lease a unit solely because the applicant holds a voucher or certificate of eligibility under section 8 of the United States Housing Act of 1937, as amended.
- (b) To obtain certification for exemption under this section, rental housing projects shall, unless exempted by the

corporation, enter into a regulatory agreement with the corporation to ensure the project's continued compliance with the applicable eligibility requirements set forth in subsection (a), as follows:

(1) For moderate rehabilitation projects, a minimum term of five years as specified in a regulatory agreement;

(2) For substantial rehabilitation projects, a minimum term of ten years as specified in a regulatory agreement; or

(3) For new construction projects, a minimum term of thirty years from the date of issuance of the certificate of occupancy.

(c) All claims for exemption under this section shall be filed with and certified by the corporation and forwarded to the department of taxation. Any claim for exemption that is filed and approved, shall not be considered a subsidy for the purpose of this part.

(d) For the purposes of this section:

"Moderate rehabilitation" means rehabilitation to upgrade a dwelling unit to a decent, safe, and sanitary condition, or to repair or replace major building systems or components in danger of failure.

"Substantial rehabilitation":

(1) Means the improvement of a property to a decent, safe, and sanitary condition that requires more than routine or minor repairs or improvements. It may include but is not limited to the gutting and extensive reconstruction of a dwelling unit, or cosmetic improvements coupled with the curing of a substantial accumulation of deferred maintenance; and

(2) Includes renovation, alteration, or remodeling to convert or adapt structurally sound property to the design and condition required for a specific use, such as conversion of a hotel to housing for elders.

(e) The corporation may establish, revise, charge, and collect a reasonable service fee, as necessary, in connection with its approvals and certifications under this section. The fees shall be deposited into the dwelling unit revolving fund. [L 2006, c 180, pt of §3; am L 2015, c 95, §1; am L 2017, c 54, §§3, 5(2); am L 2018, c 39, §3]

#### **Note**

The 2017 amendment applies to taxable years beginning after December 31, 2017, but shall not apply to projects certified or approved after June 30, 2030. L 2017, c 54, §5(1); L 2018, c 39, §4.

The 2018 amendment applies retroactively to taxable years beginning after December 31, 2017. L 2018, c 39, §11(2).

