Report Pursuant to Outside Section 106

Relative to the feasibility and efficacy of a housing construction sales tax exemption program

December 2025

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Executive Summary

Section 106 of the FY 2026 Budget directs the Executive Office of Housing and Livable Communities (HLC), in consultation with the Department of Revenue (DOR), to examine whether state tax policy could help mitigate construction cost volatility that is contributing to stalled or at-risk multifamily housing projects. Unlocking housing production is a core priority of the Healey-Driscoll Administration, and the policy objective reflected in Outside Section 106 aligns closely with the Commonwealth's broader housing affordability and production goals.

The Unlocking Housing Production Commission (UHPC) previously identified the state sales tax on construction materials as a potential policy lever, noting that for marginally feasible projects, sales tax costs can influence whether a project proceeds. In that context, Outside Section 106 appropriately calls for an evaluation of whether tax-based support could help stabilize project finances and advance housing production.

Based on its analysis and consultation with DOR, HLC finds that a sales tax exemption implemented at the point of sale, as contemplated in Outside Section 106, would present significant design and administrative challenges. These challenges stem primarily from the difficulty of defining and administering eligibility criteria in a consistent, non-discretionary manner, as well as from the absence of mechanisms to cap fiscal exposure under an exemption structure.

At the same time, the analysis reinforces the underlying policy concern motivating Outside Section 106: that construction cost volatility can stall otherwise viable housing projects. The findings suggest that alternative tax-based approaches, such as a targeted and capped tax credit, may offer more administrable pathways to advancing the Legislature's objectives while preserving certainty for developers and fiscal control for the Commonwealth.

Statutory Charge

Section 106 of the Massachusetts FY 2026 Final Budget charges the Executive Office of Housing and Livable Communities (HLC) with studying the feasibility and efficacy of a housing construction sales tax exemption program, and with reporting on the findings of this study by January 1st, 2026. The full statutory charge is as follows:

- "SECTION 106. The executive office of housing and livable communities, in consultation with the department of revenue, shall study the feasibility and efficacy of a housing construction sales tax exemption program or other form of state support for multifamily housing projects that are stalled or at risk of being stalled due to increased cost of materials associated with federal tariffs or other economic volatility for which there are no state or federal subsidies available. The executive office shall submit a report on its findings which shall include recommendations regarding potential cost and how such a program would achieve statewide housing affordability goals. The report shall consider construction cost variation across regions of the commonwealth, including in geographically isolated communities. The report shall be filed with the clerks of the senate and the house of representatives, the joint committee on housing, the joint committee on revenue and the house and senate committees on ways and means not later than January 1, 2026."

Interpretation of Statutory Charge

For the purpose of this analysis, this report interprets a "housing construction sales tax exemption program" to be an exemption from sales tax at the point of sale, as governed under General Law - Part I, Title IX, Chapter 64H, Section 6. Specifically, this report interprets the statutory charge to contemplate the addition of a 5th category of exempt structure to paragraph (f) of Section 6, to read "The following sales and the gross receipts therefrom shall be exempt from the tax imposed by this chapter: […] (f) Sales of building materials and supplies to be used in the construction, reconstruction, alteration, remodeling or repair of […] **(5) multifamily housing projects that are stalled or at risk of being stalled due to increased cost of materials associated with federal tariffs or other economic volatility for which there are no state or federal subsidies available**.[1]"

Pursuant to the statutory charge, HLC consulted with the Department of Revenue (DOR) throughout this study process and is grateful for their input.

Efficacy and Achievement of Goals

Unlocking housing production is a key goal of the Healey-Driscoll Administration and the Commonwealth's Comprehensive Housing Plan (A Home for Everyone | Mass.gov) "estimates that Massachusetts needs to add 222,000 homes to the supply from 2025 – 2035 to meet growing demand and prevent runaway home prices." Mitigating the risks facing multifamily housing projects is key to achieving this goal and is a core aim of the policy contemplated in Outside Section 106.

The Building for Tomorrow report of the Unlocking Housing Production Commission (UHPC) recommends that the Commonwealth adopt a tax credit to offset sales tax on building

[1] Bolded language inserted from statutory charge

materials used in multifamily housing production. The Commission outlined the challenge such an exemption would address:

- "Over the past five years, material costs have increased by over 40% nationwide, significantly impacting and limiting new housing production.[2] In Massachusetts, challenges have been particularly severe – the Commonwealth has among the highest construction costs in the country.[3] Local developers estimate that the impact of the MA state sales tax (6.25%) for building materials accounts for 1.5 - 5% of project costs (depending on the type of housing).[4] Thus, for marginally profitable housing projects, the state sales tax can have serious implications on whether or not a project progresses."

HLC's analysis described below indicates that the share of project costs attributable to sales tax is probably around 1.5% - 2.0% of total project costs. Project viability is complex and hinges on changes in material costs, labor costs, carrying and development costs related to permitting and entitlement timelines, financing costs, and projected future rent flows, all of which are sensitive to policy and subject to change. Given these complexities and the lack of information about stalled projects, it was not possible to estimate the number of units unlocked by the relatively small change to one element of project finance. However, any additional support can help to make more projects feasible.

Feasibility

HLC analyzed two broad aspects of implementation for their feasibility: (1) identifying projects that would be eligible for the exemption as described in Section 106; and (2) implementing the exemption itself for eligible projects.

Feasibility of defining eligible projects: As written in the legislation, the sales tax exemption contemplates a three-part test to determine if a project meets the eligibility standards set forth in Section 106.

1. **Qualifying Project Test:** Is the project a "multifamily housing project"?

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[2] Federal Reserve Bank of St. Louis, "All-Transactions House Price Index for Massachusetts," FRED, Federal Reserve Bank of St. Louis, accessed January 25, 2025, https://fred.stlouisfed.org/series/WPUSI012011.
[3] Kristina Zagame, "Cost of Building a Home by State," Today's Homeowner, accessed January 25, 2025, https://todayshomeowner.com/home-finances/guides/cost-of-building-a-home-by-state/; Roof Observations, "Relative Construction Costs by State," Roof Observations, accessed January 25, 2025, https://roofobservations.com/relative-construction-costs-by-state/.
[4] Footnote carried over from UHPC report: "Estimates are provided by members of the developer community and are highly preliminary and subject to further validation."

2. **Qualifying Status Test:** Is the project “stalled or at risk of being stalled”?
3. **Qualifying Reason Test:** Is the Qualifying Status attributable to the “increased cost of materials associated with federal tariffs or other economic volatility for which there are no state or federal subsidies available”? This would require consideration of four subtests:
    a. *Increased Cost Subtest:* Have material costs increased since the project was initially contemplated or proposed?
    b. *Attribution Subtest:* Is the Qualifying Status attributable to this increased cost?
    c. *Nexus Subtest:* Is the increased cost of materials associated with federal tariffs or other economic volatility?
    d. *Resource Scarcity Subtest:* Are there no state or federal subsidies available to help close the resulting financing gap?

After evaluating these tests and subtests, this report reaches the following conclusions:

- Implementing the **Qualifying Project Test** would be feasible, as multifamily housing projects can be clearly defined based on a unit threshold established in statute or regulation, and the policy scope could be delineated to apply to new construction, substantial rehabilitation, or both.
- Implementing the **Qualifying Status Test** would require project-specific financial and market analysis to determine whether a project is stalled or at risk of being stalled. Such determinations are inherently case-specific and would be difficult to standardize into a clear, non-discretionary eligibility framework.
- Implementing the **Qualifying Reason Test** would present additional design and administrative considerations:
    - The *Increased Cost Subtest* would require the Commonwealth to receive and review before-and-after project pro formas, introducing data collection and verification challenges.
    - The *Attribution Subtest* would require isolating the impact of increased material costs from other factors affecting project feasibility, which is difficult given the number of variables that influence project sources and uses.

- The *Nexus Subtest* would require applying macroeconomic conditions, such as tariffs or broader economic volatility, to individual project finances, which may be difficult to assess consistently at the project level.
- The *Resource Scarcity Subtest* would require evaluating both committed and potentially available public subsidies on a project-by-project basis, including whether additional resources could reasonably be pursued to address financing gaps.

This analysis indicates that while the Qualifying Project Test could be implemented through clear statutory or regulatory definitions, the remaining eligibility criteria would require individualized, project-level determinations that are difficult to standardize or administer on a non-discretionary basis at scale. As a result, the exemption framework as written would present certain design and administrative challenges, while also suggesting the potential value of alternative approaches that could advance the same policy objectives through more administrable mechanisms. Those alternative approaches are discussed later in this report.

Feasibility of implementing the exemption for eligible projects: If the Commonwealth were able to identify eligible projects through a clear and streamlined eligibility review process, it could likely implement a sales tax exemption for those projects, as such an exemption would generally align with the structure of existing project-specific exemptions in state law.

Specifically, once a project is determined to be eligible, the exemption could be administered in a manner similar to the existing exemptions under paragraph (f) of M.G.L. Chapter 64H, Section 6. This section of the General Laws establishes sales tax exemptions for building materials, supplies, and certain construction-related rentals when those items are used for specific, narrowly defined construction projects that serve public or charitable purposes.

Under the existing framework in Chapter 64H, Section 6, a governmental body or qualifying organization must obtain a certificate from the Commissioner of Revenue confirming eligibility for the exemption, and vendors must maintain records of each exempt sale, including purchaser information and certificate details.

At the same time, DOR identified several considerations that would affect the administration of a broad exemption applicable to stalled or at-risk multifamily housing projects.

Because exempt property may also be purchased for non-exempt purposes, a sales tax exemption of this nature would require robust compliance and oversight mechanisms. As transaction-level detail is not provided to DOR when sales tax is remitted, misuse of an exemption would generally be identified only through subsequent audit activity.

Vendors would face similar compliance challenges, as they may not always have sufficient information at the point of sale to determine whether a purchaser intends to use the property for an exempt purpose or whether the purchase ultimately qualifies for the exemption.

Cost Estimates

Exemption-based tax programs are not well suited to firm cost caps because they are not funded through annual appropriations, but instead operate as an entitlement available to all qualified taxpayers. Accordingly, the cost estimates presented below are intended to illustrate the potential fiscal exposure associated with such a program under a set of reasonable assumptions, rather than to establish an absolute or binding cost to the Commonwealth.

The cost each year can be approximated as the product of six inputs:

1. The number of homes built in a given year.
2. The share of those homes that are in eligible projects (for purposes of this analysis, all multifamily developments are treated as presumptively eligible).
3. The mean development costs per home in an eligible project.
4. The mean share of development costs attributable to construction.
5. The mean share of construction costs attributable to materials .
6. The applicable sales tax rate.

Applying these assumptions yields an estimated first-year cost of approximately $103,125,000, based on 2025 cost conditions. This estimate would be expected to change over time as construction costs evolve and as housing production increases in furtherance of the Healey-Driscoll Administration’s goal of producing 222,000 new homes by 2035.

It is important to note that this figure represents an upper-bound estimate, as it assumes that all multifamily projects would qualify for the exemption; a more targeted program design limited to a subset of developments would be expected to result in a lower overall cost.

Number of Homes Produced Annually

The Census Address Count Listing Files suggest that between the Decennial Census and July 2025, 97,656 homes were added to the Massachusetts housing stock on net. Dividing this number by the 5.25 years covered in the analysis period suggests that 18,600 homes were produced each year. Rounding this number up to **20,000 homes per year** of gross production helps account for redevelopment that replaces existing homes, as this redevelopment activity cannot be measured directly on a statewide basis through the Address Count Listing Files.

Share of Homes in Eligible Multifamily Projects

Approximately **50%** of homes completed in recent years in Massachusetts are in multifamily projects, defined as any new construction with two or more units.[5] While it is unlikely that every multifamily project would be considered an eligible project for the purpose of any exemption policy, this report assumes that every multifamily project would qualify for the purpose of this cost estimate.

Mean Development Costs Per Home

In the [A Home For Everyone Construction Finance Explainer], HLC referenced a developer survey that found that mean development costs in Massachusetts at **$550,000 per home** for large multifamily projects.[6]

Mean Share of Development Costs Attributable to Construction

In the [A Home For Everyone Construction Finance Explainer], HLC estimated that actual construction costs ("hard costs") account for **75%** of total development costs.[7] While this varies by project and location, the 75% share is consistent with other industry sources.

[5] EOHLC tabulations of ACS 2024 1-year estimates (table B25127). As of the 2024 American Community Survey, 53,153 occupied homes built 2020 or later statewide. 25,716 are single-family, 1,971 are 2-4 units, and the remaining 25,466 are larger. Accounting for uncertainty of where the multifamily threshold will be drawn, HLC approximated the multifamily share of the stock at 50%. Please note that these numbers are used only for the purpose of estimating the multifamily share of recently completed stock, and are not directly comparable to the Census Address Count listing files, as they cover a shorter time window and include only currently occupied units.
[6] Home for Everyone: Construction Finance Explainer | Mass.gov
[7] Home for Everyone: Construction Finance Explainer | Mass.gov

Mean Share of Construction Costs Attributable to Materials

The large multifamily housing and commercial real estate developer Cushman and Wakefield reports that **40%** of construction costs (AKA "hard costs") for multifamily housing are related to materials.[8]

Sales Tax Rate

For this analysis, HLC assumes that the sales tax rate will remain **6.25%**.

Overall One-Year Cost Estimate

Component	HLC-Estimated Value
Annual homes produced	20,000
Share of homes in eligible multifamily projects	50%
Mean development costs per home	$550,000
Share of development costs attributable to construction	75%
Share of construction costs attributable to materials	40%
Sales tax rate	6.25%
Overall estimate	$103,125,000

Regional Variation in Costs

While certain construction inputs may vary regionally, particularly where materials are locally sourced or transportation costs are labor-intensive, many key building materials such as steel and timber are traded on national or international markets, which limits regional variation in material prices across most of the Commonwealth. Projects in geographically isolated areas, including the Islands, may face higher costs for certain line items. For example, a recent analysis from a Nantucket-based real estate firm noted elevated transportation costs for both materials and labor, as well as increased risk of weather-related transportation disruptions that can delay projects and increase costs, which are often passed through to project sponsors.[9]

Alternative Approaches

Consistent with Outside Section 106's directive to consider "other forms of state support," HLC also reviewed alternative policy approaches that could advance the objective of mitigating construction cost volatility while addressing the feasibility considerations identified above.

[8] The Impact of Tariffs on CRE Construction Costs | US | Cushman & Wakefield, chart 3.
[9] Rising Construction Costs on Nantucket - Fisher Real Estate Nantucket

In its *Building for Tomorrow* report, the Unlocking Housing Production Commission (UHPC) proposed a related policy approach in the form of a project-specific tax credit to offset sales tax costs for new multifamily housing projects or substantial rehabilitations that either (a) are located in communities with median household incomes below 120% of the state average, or (b) include at least 15% affordable units.

The UHPC further offered a set of design considerations intended to promote administrative clarity, fiscal control, and equitable access, including recommendations to:

- **Model the details** of the program on the manufacturing tax exemption in M.G.L. Chapter 64H, Sections 6(r) and 6(s).
- **Limit the program** to a certain number of projects per year, capping state liability.
- **Provide for the tax exemption** to be secured following project approval, submitted to HLC for tracking, and to expire within two years if the project has not commenced construction.
- **Make the program as simple** as possible to allow smaller developers with less staff capacity to benefit.
- **Consider including** a set-aside for rural communities and/or smaller developers.
- **Provide guardrails** to certify that any qualifying rehabilitation project does not displace residents.
- **Sunset the program** after five years unless extended. This would allow the legislature to assess program success and adjust based on new capital market dynamics.

While the UHPC's recommendations do not represent the official position of the Healey-Driscoll Administration, the Commission's expert members provided valuable analysis and guidance through their final report. HLC is transmitting those elements of the UHPC's work that are most directly relevant to the statutory charge set forth in Outside Section 106.

Another alternative approach would be the establishment of a state income tax credit program. Tax credits can offer greater predictability and fiscal control than exemptions by allowing the Commonwealth to cap total annual awards and provide the administering agency with discretion over allocation. Such a program could be structured based on eligible costs incurred by developers and tailored to target projects most aligned with statewide housing goals.

At the same time, different tax mechanisms present different tradeoffs. A sales tax exemption provides a benefit at the point of purchase, delivering immediate cash-flow relief to developers, while a tax credit is typically claimed after costs are incurred and applied against personal income or corporate excise tax liability in a subsequent tax year. Under a tax credit structure, vendors would continue to remit sales tax in the ordinary course, and DOR would not be required to examine transaction-level eligibility during audits.

Tax credit programs also offer flexibility in design and administration, including the ability to structure credits as refundable or transferable, or to allow credits to be claimed over multiple tax years. These features may provide additional tools to align program design with policy objectives while addressing the administrative and fiscal considerations discussed earlier in this report.

Conclusion

In Outside Section 106, the General Court charged HLC with examining potential policy responses to a challenging development environment characterized by increased material costs associated with federal tariffs and broader economic volatility, for which limited state or federal subsidies are currently available.

Housing production depends on certainty. Developers rely on predictable assumptions regarding construction costs, allowable density, permitting timelines, and the availability of subsidies in order to assemble financing and move projects forward. When those assumptions become uncertain, projects may be delayed or may not proceed.

Accordingly, HLC evaluated the proposal in Outside Section 106 through a lens of certainty, focusing on whether the proposed exemption framework could provide clear, timely, and non-discretionary determinations of eligibility. While some elements of the proposal could be clearly defined, other aspects of the charge as written would be difficult to implement in a way that consistently yields predictable outcomes at scale or provides effective fiscal control.

At the same time, the analysis affirms that the core objective of Outside Section 106—to mitigate construction cost volatility and support housing production—is well aligned with the Commonwealth's housing goals. The findings point toward the potential value of alternative policy approaches that could achieve these objectives through more administrable mechanisms, including structures that allow for clearer eligibility standards, predictable outcomes for developers, and greater fiscal oversight. These approaches merit consideration as the Commonwealth continues to explore tools to unlock housing production.