

1 **ECONOMIC DEVELOPMENT AND LOW INCOME HOUSING**

2 **AMENDMENTS**

3 2017 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Kim F. Coleman**

6 Senate Sponsor: _____

7

LONG TITLE

8 **General Description:**

9 This bill modifies provisions related to the Community Reinvestment Agency Act.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ removes the housing allocation requirement for community reinvestment project
13 areas; and

14 ▶ makes technical changes.

15 **Money Appropriated in this Bill:**

16 None

17 **Other Special Clauses:**

18 None

19 **Utah Code Sections Affected:**

20 AMENDS:

21 **17C-1-102**, as last amended by Laws of Utah 2016, Chapter 350

22 **17C-1-412**, as last amended by Laws of Utah 2016, Chapter 350

23 REPEALS:

24 **17C-5-307**, as enacted by Laws of Utah 2016, Chapter 350

25

Be it enacted by the Legislature of the state of Utah:



28 Section 1. Section 17C-1-102 is amended to read:

29 **17C-1-102. Definitions.**

30 As used in this title:

31 (1) "Active project area" means a project area that has not been dissolved in accordance
32 with Section 17C-1-702.

33 (2) "Adjusted tax increment" means the percentage of tax increment, if less than 100%,
34 that an agency is authorized to receive:

35 (a) for a pre-July 1, 1993, project area plan, under Section 17C-1-403, excluding tax
36 increment under Subsection 17C-1-403(3);

37 (b) for a post-June 30, 1993, project area plan, under Section 17C-1-404, excluding tax
38 increment under Section 17C-1-406;

39 (c) under a project area budget approved by a taxing entity committee; or

40 (d) under an interlocal agreement that authorizes the agency to receive a taxing entity's
41 tax increment.

42 (3) "Affordable housing" means housing owned or occupied by a low or moderate
43 income family, as determined by resolution of the agency.

44 (4) "Agency" or "community reinvestment agency" means a separate body corporate
45 and politic, created under Section 17C-1-201.5 or as a redevelopment agency or community
46 development and renewal agency under previous law:

47 (a) that is a political subdivision of the state;

48 (b) that is created to undertake or promote project area development as provided in this
49 title; and

50 (c) whose geographic boundaries are coterminous with:

51 (i) for an agency created by a county, the unincorporated area of the county; and

52 (ii) for an agency created by a municipality, the boundaries of the municipality.

53 (5) "Agency funds" means money that an agency collects or receives for the purposes
54 of agency operations or implementing a project area plan, including:

55 (a) project area funds;

56 (b) income, proceeds, revenue, or property derived from or held in connection with the
57 agency's undertaking and implementation of project area development; or

58 (c) a contribution, loan, grant, or other financial assistance from any public or private

59 source.

60 (6) "Annual income" means the same as that term is defined in regulations of the
61 United States Department of Housing and Urban Development, 24 C.F.R. Sec. 5.609, as
62 amended or as superseded by replacement regulations.

63 (7) "Assessment roll" means the same as that term is defined in Section 59-2-102.

64 (8) "Base taxable value" means, unless otherwise adjusted in accordance with
65 provisions of this title, a property's taxable value as shown upon the assessment roll last
66 equalized during the base year.

67 (9) "Base year" means, except as provided in Subsection 17C-1-402(4)(c), the year
68 during which the assessment roll is last equalized:

69 (a) for a pre-July 1, 1993, urban renewal or economic development project area plan,
70 before the project area plan's effective date;

71 (b) for a post-June 30, 1993, urban renewal or economic development project area
72 plan, or a community reinvestment project area plan that is subject to a taxing entity
73 committee:

74 (i) before the date on which the taxing entity committee approves the project area
75 budget; or

76 (ii) if taxing entity committee approval is not required for the project area budget,
77 before the date on which the community legislative body adopts the project area plan;

78 (c) for a project on an inactive airport site, after the later of:

79 (i) the date on which the inactive airport site is sold for remediation and development;
80 or

81 (ii) the date on which the airport that operated on the inactive airport site ceased
82 operations; or

83 (d) for a community development project area plan or a community reinvestment
84 project area plan that is subject to an interlocal agreement, as described in the interlocal
85 agreement.

86 (10) "Basic levy" means the portion of a school district's tax levy constituting the
87 minimum basic levy under Section 59-2-902.

88 (11) "Blight" or "blighted" means the condition of an area that meets the requirements
89 described in Subsection 17C-2-303(1) for an urban renewal project area or Section 17C-5-405

90 for a community reinvestment project area.

91 (12) "Blight hearing" means a public hearing regarding whether blight exists within a
92 proposed:

93 (a) urban renewal project area under Subsection 17C-2-102(1)(a)(i)(C) and Section
94 17C-2-302; or

95 (b) community reinvestment project area under Section 17C-5-405.

96 (13) "Blight study" means a study to determine whether blight exists within a survey
97 area as described in Section 17C-2-301 for an urban renewal project area or Section 17C-5-403
98 for a community reinvestment project area.

99 (14) "Board" means the governing body of an agency, as described in Section
100 17C-1-203.

101 (15) "Budget hearing" means the public hearing on a proposed project area budget
102 required under Subsection 17C-2-201(2)(d) for an urban renewal project area budget,
103 Subsection 17C-3-201(2)(d) for an economic development project area budget, or Subsection
104 17C-5-302(2)(e) for a community reinvestment project area budget.

105 (16) "Closed military base" means land within a former military base that the Defense
106 Base Closure and Realignment Commission has voted to close or realign when that action has
107 been sustained by the president of the United States and Congress.

108 (17) "Combined incremental value" means the combined total of all incremental values
109 from all project areas, except project areas that contain some or all of a military installation or
110 inactive industrial site, within the agency's boundaries under project area plans and project area
111 budgets at the time that a project area budget for a new project area is being considered.

112 (18) "Community" means a county or municipality.

113 (19) "Community development project area plan" means a project area plan adopted
114 under Chapter 4, Part 1, Community Development Project Area Plan.

115 (20) "Community legislative body" means the legislative body of the community that
116 created the agency.

117 (21) "Community reinvestment project area plan" means a project area plan adopted
118 under Chapter 5, Part 1, Community Reinvestment Project Area Plan.

119 (22) "Contest" means to file a written complaint in the district court of the county in
120 which the agency is located.

121 (23) "Economic development project area plan" means a project area plan adopted
122 under Chapter 3, Part 1, Economic Development Project Area Plan.

123 (24) "Fair share ratio" means the ratio derived by:

124 (a) for a municipality, comparing the percentage of all housing units within the
125 municipality that are publicly subsidized income targeted housing units to the percentage of all
126 housing units within the county in which the municipality is located that are publicly
127 subsidized income targeted housing units; or

128 (b) for the unincorporated part of a county, comparing the percentage of all housing
129 units within the unincorporated county that are publicly subsidized income targeted housing
130 units to the percentage of all housing units within the whole county that are publicly subsidized
131 income targeted housing units.

132 (25) "Family" means the same as that term is defined in regulations of the United
133 States Department of Housing and Urban Development, 24 C.F.R. Section 5.403, as amended
134 or as superseded by replacement regulations.

135 (26) "Greenfield" means land not developed beyond agricultural, range, or forestry use.

136 (27) "Hazardous waste" means any substance defined, regulated, or listed as a
137 hazardous substance, hazardous material, hazardous waste, toxic waste, pollutant, contaminant,
138 or toxic substance, or identified as hazardous to human health or the environment, under state
139 or federal law or regulation.

140 (28) "Housing allocation" means tax increment allocated for housing under Section
141 [17C-2-203](#), or [17C-3-202](#) [~~or~~ [17C-5-307](#)] for the purposes described in Section [17C-1-412](#).

142 (29) "Housing fund" means a fund created by an agency for purposes described in
143 Section [17C-1-411](#) or [17C-1-412](#) that is comprised of:

144 (a) project area funds allocated for the purposes described in Section [17C-1-411](#); or

145 (b) an agency's housing allocation.

146 (30) (a) "Inactive airport site" means land that:

147 (i) consists of at least 100 acres;

148 (ii) is occupied by an airport:

149 (A) (I) that is no longer in operation as an airport; or

150 (II) (Aa) that is scheduled to be decommissioned; and

151 (Bb) for which a replacement commercial service airport is under construction; and

152 (B) that is owned or was formerly owned and operated by a public entity; and
153 (iii) requires remediation because:
154 (A) of the presence of hazardous waste or solid waste; or
155 (B) the site lacks sufficient public infrastructure and facilities, including public roads,
156 electric service, water system, and sewer system, needed to support development of the site.
157 (b) "Inactive airport site" includes a perimeter of up to 2,500 feet around the land
158 described in Subsection (30)(a).
159 (31) (a) "Inactive industrial site" means land that:
160 (i) consists of at least 1,000 acres;
161 (ii) is occupied by an inactive or abandoned factory, smelter, or other heavy industrial
162 facility; and
163 (iii) requires remediation because of the presence of hazardous waste or solid waste.
164 (b) "Inactive industrial site" includes a perimeter of up to 1,500 feet around the land
165 described in Subsection (31)(a).
166 (32) "Income targeted housing" means housing that is owned or occupied by a family
167 whose annual income is at or below 80% of the median annual income for a family within the
168 county in which the housing is located.
169 (33) "Incremental value" means a figure derived by multiplying the marginal value of
170 the property located within a project area on which tax increment is collected by a number that
171 represents the adjusted tax increment from that project area that is paid to the agency.
172 (34) "Loan fund board" means the Olene Walker Housing Loan Fund Board,
173 established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.
174 (35) (a) " Local government building" means a building owned and operated by a
175 community for the primary purpose of providing one or more primary community functions,
176 including:
177 (i) a fire station;
178 (ii) a police station;
179 (iii) a city hall; or
180 (iv) a court or other judicial building.
181 (b) " Local government building" does not include a building the primary purpose of
182 which is cultural or recreational in nature.

183 (36) "Marginal value" means the difference between actual taxable value and base
184 taxable value.

185 (37) "Military installation project area" means a project area or a portion of a project
186 area located within a federal military installation ordered closed by the federal Defense Base
187 Realignment and Closure Commission.

188 (38) "Municipality" means a city, town, or metro township as defined in Section
189 10-2a-403.

190 (39) "Participant" means one or more persons that enter into a participation agreement
191 with an agency.

192 (40) "Participation agreement" means a written agreement between a person and an
193 agency that:

194 (a) includes a description of:

195 (i) the project area development that the person will undertake;

196 (ii) the amount of project area funds the person may receive; and

197 (iii) the terms and conditions under which the person may receive project area funds;

198 and

199 (b) is approved by resolution of the board.

200 (41) "Plan hearing" means the public hearing on a proposed project area plan required
201 under Subsection 17C-2-102(1)(a)(vi) for an urban renewal project area plan, Subsection
202 17C-3-102(1)(d) for an economic development project area plan, Subsection 17C-4-102(1)(d)
203 for a community development project area plan, or Subsection 17C-5-104(3)(e) for a
204 community reinvestment project area plan.

205 (42) "Post-June 30, 1993, project area plan" means a project area plan adopted on or
206 after July 1, 1993, and before May 10, 2016, whether or not amended subsequent to the project
207 area plan's adoption.

208 (43) "Pre-July 1, 1993, project area plan" means a project area plan adopted before July
209 1, 1993, whether or not amended subsequent to the project area plan's adoption.

210 (44) "Private," with respect to real property, means:

211 (a) not owned by a public entity or any other governmental entity; and

212 (b) not dedicated to public use.

213 (45) "Project area" means the geographic area described in a project area plan within

214 which the project area development described in the project area plan takes place or is
215 proposed to take place.

216 (46) "Project area budget" means a multiyear projection of annual or cumulative
217 revenues and expenses and other fiscal matters pertaining to a project area prepared in
218 accordance with:

- 219 (a) for an urban renewal project area, Section 17C-2-202;
- 220 (b) for an economic development project area, Section 17C-3-202;
- 221 (c) for a community development project area, Section 17C-4-204; or
- 222 (d) for a community reinvestment project area, Section 17C-5-302.

223 (47) "Project area development" means activity within a project area that, as
224 determined by the board, encourages, promotes, or provides development or redevelopment for
225 the purpose of implementing a project area plan, including:

- 226 (a) promoting, creating, or retaining public or private jobs within the state or a
227 community;
- 228 (b) providing office, manufacturing, warehousing, distribution, parking, or other
229 facilities or improvements;
- 230 (c) planning, designing, demolishing, clearing, constructing, rehabilitating, or
231 remediating environmental issues;
- 232 (d) providing residential, commercial, industrial, public, or other structures or spaces,
233 including recreational and other facilities incidental or appurtenant to the structures or spaces;
- 234 (e) altering, improving, modernizing, demolishing, reconstructing, or rehabilitating
235 existing structures;
- 236 (f) providing open space, including streets or other public grounds or space around
237 buildings;
- 238 (g) providing public or private buildings, infrastructure, structures, or improvements;
- 239 (h) relocating a business;
- 240 (i) improving public or private recreation areas or other public grounds;
- 241 (j) eliminating blight or the causes of blight;
- 242 (k) redevelopment as defined under the law in effect before May 1, 2006; or
- 243 (l) any activity described in Subsections (47)(a) through (k) outside of a project area

244 that the board determines to be a benefit to the project area.

245 (48) "Project area funds" means tax increment or sales and use tax revenue that an
246 agency receives under a project area budget adopted by a taxing entity committee or an
247 interlocal agreement.

248 (49) "Project area funds collection period" means the period of time that:

249 (a) begins the day on which the first payment of project area funds is distributed to an
250 agency under a project area budget adopted by a taxing entity committee or an interlocal
251 agreement; and

252 (b) ends the day on which the last payment of project area funds is distributed to an
253 agency under a project area budget adopted by a taxing entity committee or an interlocal
254 agreement.

255 (50) "Project area plan" means an urban renewal project area plan, an economic
256 development project area plan, a community development project area plan, or a community
257 reinvestment project area plan that, after the project area plan's effective date, guides and
258 controls the project area development.

259 (51) (a) "Property tax" means each levy on an ad valorem basis on tangible or
260 intangible personal or real property.

261 (b) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4, Privilege
262 Tax.

263 (52) "Public entity" means:

264 (a) the United States, including an agency of the United States;

265 (b) the state, including any of the state's departments or agencies; or

266 (c) a political subdivision of the state, including a county, municipality, school district,
267 local district, special service district, or interlocal cooperation entity.

268 (53) "Publicly owned infrastructure and improvements" means water, sewer, storm
269 drainage, electrical, natural gas, telecommunication, or other similar systems and lines, streets,
270 roads, curb, gutter, sidewalk, walkways, parking facilities, public transportation facilities, or
271 other facilities, infrastructure, and improvements benefitting the public and to be publicly
272 owned or publicly maintained or operated.

273 (54) "Record property owner" or "record owner of property" means the owner of real
274 property, as shown on the records of the county in which the property is located, to whom the
275 property's tax notice is sent.

- 276 (55) "Sales and use tax revenue" means revenue that is:
- 277 (a) generated from a tax imposed under Title 59, Chapter 12, Sales and Use Tax Act;
- 278 and
- 279 (b) distributed to a taxing entity in accordance with Sections [59-12-204](#) and [59-12-205](#).
- 280 (56) "Superfund site":
- 281 (a) means an area included in the National Priorities List under the Comprehensive
- 282 Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sec. 9605; and
- 283 (b) includes an area formerly included in the National Priorities List, as described in
- 284 Subsection (56)(a), but removed from the list following remediation that leaves on site the
- 285 waste that caused the area to be included in the National Priorities List.
- 286 (57) "Survey area" means a geographic area designated for study by a survey area
- 287 resolution to determine whether one or more project areas within the survey area are feasible.
- 288 (58) "Survey area resolution" means a resolution adopted by a board under Subsection
- 289 [17C-2-101.5\(1\)](#) or [17C-5-103\(1\)](#) designating a survey area.
- 290 (59) "Taxable value" means:
- 291 (a) the taxable value of all real property a county assessor assesses in accordance with
- 292 Title 59, Chapter 2, Part 3, County Assessment, for the current year;
- 293 (b) the taxable value of all real and personal property the commission assesses in
- 294 accordance with Title 59, Chapter 2, Part 2, Assessment of Property, for the current year; and
- 295 (c) the year end taxable value of all personal property a county assessor assesses in
- 296 accordance with Title 59, Chapter 2, Part 3, County Assessment, contained on the prior year's
- 297 tax rolls of the taxing entity.
- 298 (60) (a) "Tax increment" means the difference between:
- 299 (i) the amount of property tax revenue generated each tax year by a taxing entity from
- 300 the area within a project area designated in the project area plan as the area from which tax
- 301 increment is to be collected, using the current assessed value of the property; and
- 302 (ii) the amount of property tax revenue that would be generated from that same area
- 303 using the base taxable value of the property.
- 304 (b) "Tax increment" does not include taxes levied and collected under Section
- 305 [59-2-1602](#) on or after January 1, 1994, upon the taxable property in the project area unless:
- 306 (i) the project area plan was adopted before May 4, 1993, whether or not the project

307 area plan was subsequently amended; and

308 (ii) the taxes were pledged to support bond indebtedness or other contractual
309 obligations of the agency.

310 (61) "Taxing entity" means a public entity that:

311 (a) levies a tax on property located within a project area; or

312 (b) imposes a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.

313 (62) "Taxing entity committee" means a committee representing the interests of taxing
314 entities, created in accordance with Section 17C-1-402.

315 (63) "Unincorporated" means not within a municipality.

316 (64) "Urban renewal project area plan" means a project area plan adopted under
317 Chapter 2, Part 1, Urban Renewal Project Area Plan.

318 Section 2. Section 17C-1-412 is amended to read:

319 **17C-1-412. Use of housing allocation -- Separate accounting required -- Issuance**
320 **of bonds for housing -- Action to compel agency to provide housing allocation.**

321 (1) (a) An agency shall use the agency's housing allocation, if applicable, to:

322 (i) pay part or all of the cost of land or construction of income targeted housing within
323 the boundary of the agency, if practicable in a mixed income development or area;

324 (ii) pay part or all of the cost of rehabilitation of income targeted housing within the
325 boundary of the agency;

326 (iii) lend, grant, or contribute money to a person, public entity, housing authority,
327 private entity or business, or nonprofit corporation for income targeted housing within the
328 boundary of the agency;

329 (iv) plan or otherwise promote income targeted housing within the boundary of the
330 agency;

331 (v) pay part or all of the cost of land or installation, construction, or rehabilitation of
332 any building, facility, structure, or other housing improvement, including infrastructure
333 improvements, related to housing located in a project area where blight has been found to exist;

334 (vi) replace housing units lost as a result of the project area development;

335 (vii) make payments on or establish a reserve fund for bonds:

336 (A) issued by the agency, the community, or the housing authority that provides
337 income targeted housing within the community; and

338 (B) all or part of the proceeds of which are used within the community for the purposes
339 stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi);

340 (viii) if the community's fair share ratio at the time of the first adoption of the project
341 area budget is at least 1.1 to 1.0, make payments on bonds:

342 (A) that were previously issued by the agency, the community, or the housing authority
343 that provides income targeted housing within the community; and

344 (B) all or part of the proceeds of which were used within the community for the
345 purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi); or

346 (ix) relocate mobile home park residents displaced by project area development.

347 (b) As an alternative to the requirements of Subsection (1)(a), an agency may pay all or
348 any portion of the agency's housing allocation to:

349 (i) the community for use as described in Subsection (1)(a);

350 (ii) a housing authority that provides income targeted housing within the community
351 for use in providing income targeted housing within the community;

352 (iii) a housing authority established by the county in which the agency is located for
353 providing:

354 (A) income targeted housing within the county;

355 (B) permanent housing, permanent supportive housing, or a transitional facility, as
356 defined in Section [35A-5-302](#), within the county; or

357 (C) homeless assistance within the county; or

358 (iv) the Olene Walker Housing Loan Fund, established under Title 35A, Chapter 8,
359 Part 5, Olene Walker Housing Loan Fund, for use in providing income targeted housing within
360 the community.

361 (2) The agency shall create a housing fund and separately account for the agency's
362 housing allocation, together with all interest earned by the housing allocation and all payments
363 or repayments for loans, advances, or grants from the housing allocation.

364 (3) An agency may:

365 (a) issue bonds to finance a housing-related project under this section, including the
366 payment of principal and interest upon advances for surveys and plans or preliminary loans;
367 and

368 (b) issue refunding bonds for the payment or retirement of bonds under Subsection

369 (3)(a) previously issued by the agency.

370 (4) (a) Except as provided in Subsection (4)(b), if required by the project area budget,
371 an agency shall allocate money to the housing fund each year in which the agency receives
372 sufficient tax increment to make [a] the housing allocation required by the project area budget.

373 (b) Subsection (4)(a) does not apply in a year in which tax increment is insufficient.

374 (5) (a) Except as provided in Subsection (4)(b), if an agency fails to provide a housing
375 allocation [~~in accordance with~~] required by the project area budget and, if applicable, the
376 housing plan adopted under Subsection 17C-2-204(2), the loan fund board may bring legal
377 action to compel the agency to provide the housing allocation.

378 (b) In an action under Subsection (5)(a), the court:

379 (i) shall award the loan fund board reasonable attorney fees, unless the court finds that
380 the action was frivolous; and

381 (ii) may not award the agency the agency's attorney fees, unless the court finds that the
382 action was frivolous.

383 Section 3. **Repealer.**

384 This bill repeals:

385 Section 17C-5-307, **Allocating project area funds for housing.**

Legislative Review Note
Office of Legislative Research and General Counsel