

Representative Stephen G. Handy proposes the following substitute bill:

URBAN REDEVELOPMENT TAX CREDIT

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen G. Handy

Senate Sponsor: _____

LONG TITLE

General Description:

This bill creates an urban redevelopment tax credit.

Highlighted Provisions:

This bill:

- ▶ creates a nonrefundable urban redevelopment tax credit;
- ▶ provides a process by which a qualified investor may claim an urban redevelopment tax credit; and
- ▶ requires the developer to submit an annual report regarding an urban redevelopment project.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

35A-8-2101, Utah Code Annotated 1953

35A-8-2102, Utah Code Annotated 1953

35A-8-2103, Utah Code Annotated 1953



- 26 [35A-8-2104](#), Utah Code Annotated 1953
- 27 [35A-8-2105](#), Utah Code Annotated 1953
- 28 [35A-8-2106](#), Utah Code Annotated 1953
- 29 [59-7-621](#), Utah Code Annotated 1953
- 30 [59-10-1036](#), Utah Code Annotated 1953

31
32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section [35A-8-2101](#) is enacted to read:

34 **Part 21. Urban Redevelopment Tax Credit**

35 **[35A-8-2101](#). Title.**

36 This part is known as "Urban Redevelopment Tax Credit."

37 Section 2. Section [35A-8-2102](#) is enacted to read:

38 **[35A-8-2102](#). Definitions.**

39 (1) "Agency" means a community development and renewal agency as defined in
40 Section [17C-1-102](#).

41 (2) "Community" means a county, city, or town within which an urban redevelopment
42 project is located or is proposed to be located.

43 (3) "Credit allowance date" means:

44 (a) the date on which a qualified investor first claims a tax credit; and

45 (b) each of the nine anniversary dates of the date described in Subsection (3)(a).

46 (4) "Developer" means a person that executes a development agreement with an agency
47 for the purpose of constructing an urban redevelopment project.

48 (5) (a) "Local contribution" means money, an asset, or other valuable contribution that
49 the community or the agency agrees to contribute to an urban redevelopment project, including:

50 (i) simplified procedures for obtaining a permit;

51 (ii) dedication of an available government grant;

52 (iii) infrastructure improvements;

53 (iv) a utility rate concession; or

54 (v) any portion of the agency's housing funds, as defined in Section [17C-1-102](#).

55 (b) Except as provided in Subsection (5)(a)(v), "local contribution" does not include
56 tax increment, as defined in Section [17C-1-102](#).

- 57 (6) "Long-term debt instrument" means a debt instrument issued by an investor:
- 58 (a) with an original maturity date of at least 10 years after the day on which the debt
- 59 instrument is issued; and
- 60 (b) with no repayment, amortization, or prepayment features before the debt
- 61 instrument's maturity date.
- 62 (7) "Project" means a redevelopment project that improves previously developed land,
- 63 including:
- 64 (a) constructing or altering the land; or
- 65 (b) demolishing, constructing, or reconstructing a building.
- 66 (8) "Qualified investment" means an investment in an urban redevelopment project
- 67 that:
- 68 (a) includes:
- 69 (i) an equity investment; or
- 70 (ii) a long-term debt instrument; and
- 71 (b) is certified by the division in accordance with Section [35A-8-2105](#).
- 72 (9) "Qualified investor" means a person, including a developer, that makes a qualified
- 73 investment and is eligible to claim a tax credit.
- 74 (10) "Tax credit" means a nonrefundable tax credit for an urban redevelopment project
- 75 as described in Section [59-7-621](#) or [59-10-1036](#).
- 76 (11) "Tax credit allocation" means the amount of a tax credit that a qualified investor is
- 77 eligible to claim.
- 78 (12) "Tax credit certificate" means a certificate issued by the division to a qualified
- 79 investor that:
- 80 (a) states the qualified investor's:
- 81 (i) name; and
- 82 (ii) tax identification number;
- 83 (b) confirms that the division authorizes the qualified investor to receive a tax credit;
- 84 (c) states the amount of tax credit that the division authorizes the qualified investor to
- 85 receive for the calendar year; and
- 86 (d) includes any other information determined by the division.
- 87 (13) "Urban redevelopment project" means a project that meets the requirements of

88 Subsection 35A-8-2103(5).

89 Section 3. Section 35A-8-2103 is enacted to read:

90 **35A-8-2103. Tax credit -- Eligibility -- Application process.**

91 (1) An agency shall, in accordance with this section, make a recommendation to the
92 division regarding:

93 (a) whether a project is an urban redevelopment project;

94 (b) whether an investment is a qualified investment; and

95 (c) the amount of the qualified investor's tax credit allocation.

96 (2) A developer seeking a recommendation from an agency shall file an application
97 with the agency that includes:

98 (a) a letter of intent from an investor that states the amount of the investor's investment
99 in the project;

100 (b) a detailed estimation of the project's total costs;

101 (c) a statement that includes the amount and source of all money that the developer will
102 use to pay for the project, including documentation of the developer's own equity; and

103 (d) any other documentation the agency requests.

104 (3) Upon receipt of a complete application described in Subsection (2), an agency
105 shall:

106 (a) provide notice and hold a public hearing in accordance with Title 17C, Chapter 2,
107 Part 4, Hearing and Notice Requirements; and

108 (b) at the public hearing:

109 (i) evaluate the developer's application using the criteria described in Subsections (5)
110 and (6); and

111 (ii) by resolution:

112 (A) make a recommendation described in Subsection (1); and

113 (B) certify the amount of any local contribution.

114 (4) After the agency adopts a resolution described in Subsection (3)(b)(ii), a qualified
115 investor may apply to the division for a tax credit certificate in accordance with Section
116 35A-8-2104.

117 (5) An agency may recommend that a project is an urban redevelopment project if the
118 project:

119 (a) provides positive direct and indirect benefits to the tax base of the community;

120 (b) reduces or eliminates blight;

121 (c) is only financially feasible with a tax credit;

122 (d) costs at least \$3,500,000 to complete;

123 (e) is located within a project area, as defined in Section 17C-1-102, in which the
124 agency makes a finding of blight in accordance with Section 17C-2-102;

125 (f) upon completion, has no more than 20% of the land area dedicated for commercial
126 use;

127 (g) is subject to a development agreement between a developer and an agency; and

128 (h) provides additional benefits that align with the agency's goals.

129 (6) (a) An agency may recommend that an investment in an urban redevelopment
130 project is a qualified investment if:

131 (i) the developer provides the agency with a letter of intent from an investor to invest in
132 the project; and

133 (ii) the agency determines that the investor's investment will be used to pay for all or a
134 portion of the urban redevelopment project.

135 (b) If the agency recommends that the investment is a qualified investment in
136 accordance with Subsection (6)(a), subject to Subsection 35A-8-2105(2), the agency shall
137 determine the amount of the qualified investor's tax credit allocation.

138 Section 4. Section 35A-8-2104 is enacted to read:

139 **35A-8-2104. Applying for a tax credit certificate.**

140 (1) A qualified investor:

141 (a) may claim a tax credit against the qualified investor's tax liability under:

142 (i) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

143 (ii) Title 50, Chapter 10, Individual Income Tax Act; and

144 (b) is eligible to apply for a tax credit certificate in accordance with this section:

145 (i) after the qualified investor pays the qualified investment to the developer for an
146 urban redevelopment project; and

147 (ii) if the urban redevelopment project receives one or more local contributions that
148 equal at least 50% of the tax credit allocation.

149 (2) (a) A qualified investor shall submit an application to the division for a tax credit

150 certificate.

151 (b) The application described in Subsection (2)(a) shall include:

152 (i) a copy of the resolution described in Subsection [35A-8-2103\(4\)](#);

153 (ii) the qualified investor's tax identification number;

154 (iii) proof that the qualified investor made the qualified investment; and

155 (iv) any additional information the division requests.

156 (3) The division shall verify the application described in Subsection (2) and issue a tax
157 credit certificate as described in Subsection (4).

158 (4) The division shall, in accordance with Section [35A-8-2105](#):

159 (a) issue the first tax credit certificate no later than January 1 of the year immediately
160 following the year in which the division verifies an application described in Subsection (2);

161 (b) issue a tax credit certificate on each subsequent credit allocation date; and

162 (c) provide the State Tax Commission a copy of each tax credit certificate described in
163 Subsections (4)(a) and (b).

164 Section 5. Section **35A-8-2105** is enacted to read:

165 **35A-8-2105. Tax credit structure.**

166 (1) (a) The division may allocate up to \$4,000,000 of tax credit to all qualified
167 investors each fiscal year.

168 (b) The division shall allocate tax credits to qualified investors in the order in which
169 the division receives the qualified investors' applications described in Subsection
170 [35A-8-2104\(2\)](#).

171 (2) (a) A tax credit allocation may not exceed 35% of the qualified investment.

172 (b) On each credit allowance date for 10 consecutive years, the qualified investor may
173 claim an equal proportion of the tax credit allocation.

174 Section 6. Section **35A-8-2106** is enacted to read:

175 **35A-8-2106. Monitoring and recapture.**

176 (1) On or before December 1 of each year during which a qualified investor claims a
177 portion of the qualified investor's tax credit allocation, the developer shall prepare and
178 electronically submit a report to the agency and the division that includes:

179 (a) a description of the progress made toward completing the urban redevelopment
180 project;

- 181 (b) a detailed statement of the developer's expenditures related to the urban
182 redevelopment project; and
- 183 (c) any additional information the agency or division requests.
- 184 (2) The division may recapture a tax credit from a qualified investor that claims a tax
185 credit authorized under Section [59-7-621](#) or [59-10-1036](#):
- 186 (a) if the developer redeems or makes principal repayment with respect to a qualified
187 investment before the 10th anniversary of the first credit allocation date; and
- 188 (b) in an amount proportionate to the amount of the redemption or repayment.
- 189 (3) The division may not recapture a tax credit until the division:
- 190 (a) notifies the qualified investor of noncompliance; and
- 191 (b) gives the qualified investor six months from the day on which the division provides
192 the notice described in Subsection (3)(a) to cure the noncompliance.
- 193 (4) A recaptured tax credit under this section reverts back to the division and shall be
194 reissued in accordance with Section [35A-8-2104](#).
- 195 Section 7. Section **59-7-621** is enacted to read:
- 196 **59-7-621. Nonrefundable tax credit for urban redevelopment project.**
- 197 (1) As used in this section:
- 198 (a) "Agency" means a community development and renewal agency, as defined in
199 Section [17C-1-102](#).
- 200 (b) "Division" means the Housing and Community Development Division.
- 201 (c) "Qualified investor" means the same as that term is defined in Section [35A-8-2102](#).
- 202 (d) "Tax credit certificate" means the same as that term is defined in Section
203 [35A-8-2102](#).
- 204 (e) "Urban redevelopment project" means the same as that term is defined in Section
205 [35A-8-2102](#).
- 206 (2) Subject to the provisions of this section, a qualified investor may claim a
207 nonrefundable tax credit against the qualified investor's tax liability under this chapter.
- 208 (3) The tax credit under this section is the amount listed as the tax credit amount on a
209 tax credit certificate that the division issues under Title 35A, Chapter 8, Part 21, Urban
210 Redevelopment Tax Credit, to the qualified investor for a taxable year.
- 211 (4) A qualified investor may carry forward a tax credit claimed for a given taxable year

212 for a period that does not exceed 10 taxable years after the taxable year indicated on the tax
213 credit certificate if, for the taxable year:

- 214 (a) the qualified investor is allowed to claim a tax credit under this section; and
- 215 (b) the amount of the tax credit exceeds the qualified investor's tax liability under this
216 chapter.

217 (5) (a) On or before October 1, 2021, and every five years after October 1, 2021, the
218 Revenue and Taxation Interim Committee shall study the tax credit authorized by this section
219 and make a recommendation to the Legislative Management Committee concerning whether
220 the Legislature should continue, modify, or repeal the tax credit.

221 (b) For purposes of the study described in Subsection (5)(a), the division shall, in
222 consultation with the agency, provide the following information to the Revenue and Taxation
223 Interim Committee by electronic means:

224 (i) the amount of tax credit that the division grants to each qualified investor for each
225 taxable year;

226 (ii) the progress of each urban redevelopment project for which a tax credit was
227 authorized; and

228 (iii) any other information that the Revenue and Taxation Interim Committee requests.

229 (c) The Revenue and Taxation Interim Committee shall ensure that the Revenue and
230 Taxation Interim Committee's recommendation under Subsection (5)(a) includes an evaluation
231 of:

232 (i) the cost of the tax credit to the state;

233 (ii) the purpose and effectiveness of the tax credit; and

234 (iii) the extent to which the state benefits from the tax credit.

235 Section 8. Section **59-10-1036** is enacted to read:

236 **59-10-1036. Nonrefundable tax credit for urban redevelopment project.**

237 (1) As used in this section:

238 (a) "Agency" means a community development and renewal agency, as defined in
239 Section [17C-1-102](#).

240 (b) "Division" means the Housing and Community Development Division.

241 (c) "Qualified investor" means the same as that term is defined in Section [35A-8-2102](#).

242 (d) "Tax credit certificate" means the same as that term is defined in Section

243 [35A-8-2102.](#)

244 (e) "Urban redevelopment project" means the same as that term is defined in Section
245 [35A-8-2102.](#)

246 (2) Subject to the provisions of this section, a qualified investor may claim a
247 nonrefundable tax credit against the qualified investor's tax liability under this chapter.

248 (3) The tax credit under this section is the amount listed as the tax credit amount on a
249 tax credit certificate that the division issues under Title 35A, Chapter 8, Part 21, Urban
250 Redevelopment Tax Credit, to the qualified investor for a taxable year.

251 (4) A qualified investor may carry forward a tax credit claimed for a taxable year for a
252 period that does not exceed 10 taxable years after the taxable year indicated on the tax credit
253 certificate if, for the taxable year:

254 (a) the qualified investor is allowed to claim a tax credit under this section; and

255 (b) the amount of the tax credit exceeds the qualified investor's tax liability under this
256 chapter.

257 (5) (a) On or before October 1, 2021, and every five years after October 1, 2021, the
258 Revenue and Taxation Interim Committee shall study the tax credit authorized by this section
259 and make a recommendation to the Legislative Management Committee concerning whether
260 the Legislature should continue, modify, or repeal the tax credit.

261 (b) For purposes of the study described in Subsection (5)(a), the division shall, in
262 consultation with the agency, provide the following information to the Revenue and Taxation
263 Interim Committee by electronic means:

264 (i) the amount of tax credit that the division grants to each qualified investor for each
265 taxable year;

266 (ii) the progress of each urban redevelopment project for which a tax credit was
267 authorized; and

268 (iii) any other information that the Revenue and Taxation Interim Committee requests.

269 (c) The Revenue and Taxation Interim Committee shall ensure that the Revenue and
270 Taxation Interim Committee's recommendation under Subsection (5)(a) includes an evaluation
271 of:

272 (i) the cost of the tax credit to the state;

273 (ii) the purpose and effectiveness of the tax credit; and

274 (iii) the extent to which the state benefits from the tax credit.

275 Section 9. **Effective date.**

276 This bill takes effect for a taxable year beginning on or after January 1, H→ [2016]

276a 2017 ←H .