

Representative Rebecca P. Edwards proposes the following substitute bill:

ECONOMIC REVITALIZATION AND INVESTMENT

MODIFICATIONS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rebecca P. Edwards

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to housing and community development.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Economic Revitalization and Investment Restricted Account;
- ▶ establishes requirements for the distribution of funds from the account; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

35A-8-501, as renumbered and amended by Laws of Utah 2012, Chapter 212

35A-8-506, as renumbered and amended by Laws of Utah 2012, Chapter 212

63J-1-602.2, as last amended by Laws of Utah 2015, Chapters 86, 93, and 189



26 ENACTS:

27 **35A-8-509**, Utah Code Annotated 1953

28 **35A-8-510**, Utah Code Annotated 1953

29 **35A-8-511**, Utah Code Annotated 1953

30 **35A-8-512**, Utah Code Annotated 1953

31 **35A-8-513**, Utah Code Annotated 1953

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

34 Section 1. Section **35A-8-501** is amended to read:

35 **35A-8-501. Definitions.**

36 As used in this part:

37 (1) "Affordable housing" means housing occupied or reserved for occupancy by
38 households whose incomes are at or below certain income requirements at rental rates
39 affordable to such households.

40 ~~(1)~~ (2) "Board" means the Housing Board created by this part.

41 ~~(2)~~ (3) "Fund" means the Olene Walker Housing Loan Fund created by this part.

42 (4) (a) "Housing sponsor" means a person who constructs, develops, rehabilitates,
43 purchases, or owns a housing development that is or will be subject to legally enforceable
44 restrictive covenants that require the housing development to provide, at least in part,
45 affordable housing.

46 (b) "Housing sponsor" may include:

47 (i) a local public body;

48 (ii) a nonprofit, limited profit, or for profit corporation;

49 (iii) a limited partnership;

50 (iv) a limited liability company;

51 (v) a joint venture;

52 (vi) a subsidiary of the Utah Housing Corporation;

53 (vii) a cooperative;

54 (viii) a mutual housing organization;

55 (ix) a local government;

56 (x) a local housing authority;

57 (xi) a regional or statewide nonprofit housing or assistance organization; or

58 (xii) any other entity that helps provide affordable housing.

59 (5) "Restricted account" means the Economic Revitalization and Investment Restricted
60 Account created in Section 35A-8-509.

61 ~~[(3)]~~ (6) "Rural" means a county in the state other than Utah, Salt Lake, Davis, or
62 Weber.

63 Section 2. Section 35A-8-506 is amended to read:

64 **35A-8-506. Entities authorized to receive fund money.**

65 ~~[(1)]~~ The executive director, with the approval of the board, may grant or lend fund
66 money to a housing ~~[sponsors]~~ sponsor.

67 ~~[(2) "Housing sponsor" includes a person who constructs, develops, rehabilitates,~~
68 ~~purchases, or owns a housing development that is or will be subject to legally enforceable~~
69 ~~restrictive covenants that require the housing development to provide, at least in part,~~
70 ~~residential housing to low and moderate income persons.]~~

71 ~~[(3) A housing sponsor includes:]~~

72 ~~[(a) a local public body;]~~

73 ~~[(b) a nonprofit, limited profit, or for profit corporation;]~~

74 ~~[(c) a limited partnership;]~~

75 ~~[(d) a limited liability company;]~~

76 ~~[(e) a joint venture;]~~

77 ~~[(f) a subsidiary of the Utah Housing Corporation or any subsidiary of the subsidiary of~~
78 ~~the Utah Housing Corporation;]~~

79 ~~[(g) a cooperative;]~~

80 ~~[(h) a mutual housing organization;]~~

81 ~~[(i) a local government;]~~

82 ~~[(j) a local housing authority;]~~

83 ~~[(k) a regional or statewide nonprofit housing or assistance organization; or]~~

84 ~~[(l) any other type of entity or arrangement that helps provide affordable housing for~~
85 ~~low and moderate income persons.]~~

86 Section 3. Section 35A-8-509 is enacted to read:

87 **35A-8-509. Economic Revitalization and Investment Restricted Account.**

88 (1) There is created in the General Fund a restricted account known as the "Economic
89 Revitalization and Investment Restricted Account."

90 (2) The restricted account shall be funded by:

91 (a) money appropriated to the account by the Legislature;

92 (b) private contributions;

93 (c) donations or grants from public or private entities; and

94 (d) money returned to the department under Section [35A-8-512](#).

95 (3) The restricted account shall earn interest, which shall be deposited into the
96 restricted account.

97 (4) Upon appropriation by the Legislature, the executive director shall distribute money
98 into the restricted account to fund one or more projects that:

99 (a) include affordable housing units for households:

100 (i) that make no more than 30% of the area median income for households of the same
101 size in the area where the project is located; and

102 (ii) at rental rates no greater than the rates described in Subsection [35A-8-511](#)(2)(b);

103 (b) have not been awarded a 9% tax credit as part of the Low Income Housing Tax
104 Credit program administered by the United States Department of Housing and Urban
105 Development; and

106 (c) have been approved by the board as described in Section [35A-8-510](#).

107 (5) (a) A housing sponsor may apply to the department to receive a distribution in
108 accordance with Subsection (4).

109 (b) The application shall include:

110 (i) the location of the project;

111 (ii) the number, size, and income requirements of affordable housing units described in
112 Subsection (4)(a) the project will include; and

113 (iii) a written commitment to enter into a deed restriction that reserves for a period of
114 30 years the affordable housing units described in Subsection (5)(b)(ii) or their equivalent for
115 occupancy by households that meet the income requirements described in Subsection (5)(b)(ii).

116 (c) The commitment in Subsection (5)(b)(iii) shall be considered met if a housing unit
117 is:

118 (i) (A) occupied or reserved for occupancy by a household that makes no more than

119 30% of the area median income for households of the same size in the area where the project is
120 located; or

121 (B) occupied by a household that makes no more than 60% of the area median income
122 for households of the same size in the area where the project is located if that household met
123 the income requirement described in Subsection (4)(a) when the household originally entered
124 into the lease agreement for the housing unit; and

125 (ii) rented at a rate no greater than the rate described in Subsection [35A-8-511\(2\)\(b\)](#).

126 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
127 department may make additional rules providing procedures for a person to apply to the
128 department to receive a distribution described in Subsection (4).

129 (6) In accordance with Section [63J-1-602.2](#), appropriations from the account are
130 nonlapsing.

131 Section 4. Section **35A-8-510** is enacted to read:

132 **35A-8-510. Housing loan fund board approval.**

133 (1) The board shall review the project applications described in Subsection
134 [35A-8-509\(5\)](#).

135 (2) The board may approve a project that meets the requirements of Subsections
136 [35A-8-509\(4\)](#) and [\(5\)](#) to receive funds from the restricted account.

137 (3) The board shall give preference to projects:

138 (a) that include significant additional or matching funds from an individual, private
139 organization, or local government entity;

140 (b) with high recipient contributions to total project costs, including allied
141 contributions from other sources such as professional, craft, and trade services and lender
142 interest rate subsidies;

143 (c) with high local government project contributions in the form of infrastructure,
144 improvements, or other assistance;

145 (d) that encourage ownership, management, or other project-related responsibility
146 opportunities;

147 (e) where the applicant has demonstrated the ability, stability, and resources to
148 complete the project;

149 (f) that will serve the greatest need;

- 150 (g) that promote economic development benefits;
- 151 (h) that allow integration into a local government housing plan;
- 152 (i) that would mitigate or correct existing health, safety, or welfare concerns; and
- 153 (j) that remedy a gap in the supply of and demand for affordable housing.

154 Section 5. Section **35A-8-511** is enacted to read:

155 **35A-8-511. Activities authorized to receive account money.**

156 (1) Subject to appropriation, the executive director may distribute funds from the
157 Economic Revitalization and Investment Restricted Account for any of the following activities
158 undertaken as part of an approved project:

159 (a) the acquisition, rehabilitation, or new construction of a building that includes
160 affordable housing units;

161 (b) the purchase of land for the construction of a building that will include affordable
162 housing units; or

163 (c) pre-development work, including planning, studies, design, and site work for a
164 building that will include affordable housing units.

165 (2) The maximum amount of money from the restricted account that may be distributed
166 for each affordable housing unit that has been committed in accordance with Subsection
167 35A-8-509(5)(b)(iii) is the present value, based on the current market interest rate as
168 determined by the board for a multi-family mortgage loan in the county or metropolitan area
169 where the project is located, of 360 monthly payments equal to the difference between:

170 (a) the most recent United States Department of Housing and Urban Development fair
171 market rent for a unit of the same size in the county or metropolitan area where the project is
172 located; and

173 (b) an affordable rent equal to 30% of the income requirement described in Subsection
174 35A-8-509(5)(b)(ii) for a household of:

175 (i) one person if the unit is an efficiency unit;

176 (ii) two people if the unit is a one-bedroom unit;

177 (iii) four people if the unit is a two-bedroom unit;

178 (iv) five people if the unit is a three-bedroom unit;

179 (v) six people if the unit is a four-bedroom unit; or

180 (vi) eight people if the unit is a five-bedroom or larger unit.

181 Section 6. Section **35A-8-512** is enacted to read:

182 **35A-8-512. Repayment of funds.**

183 (1) Upon the earlier of 30 years from the date of funding or the sale or transfer of the
184 affordable housing units acquired, constructed, or rehabilitated as part of an approved project
185 funded under Section [35A-8-511](#), the housing sponsor shall remit to the department:

186 (a) the total amount of money distributed by the department to the housing sponsor for
187 the project; and

188 (b) an additional amount of money determined by contract with the department prior to
189 the initial disbursement of funds from the restricted account.

190 (2) Any claim arising under Subsection (1) is a lien against the real property funded
191 under this chapter.

192 (3) Any money returned to the department under Subsection (1) shall be placed in the
193 Economic Revitalization and Investment Account.

194 Section 7. Section **35A-8-513** is enacted to read:

195 **35A-8-513. Annual accounting.**

196 (1) The executive director shall monitor the activities of recipients of funds from the
197 Economic Revitalization and Investment Restricted Account on a yearly basis to ensure
198 compliance with the terms and conditions imposed on the recipient by the executive director
199 with the approval of the board.

200 (2) An entity that receives funds from the restricted account shall provide the executive
201 director with an annual accounting of how the money the entity received from the Economic
202 Revitalization and Investment Restricted Account has been spent and evidence that the
203 commitment described in Subsection [35A-8-509\(5\)](#) has been met.

204 (3) The executive director shall make an annual report to the board accounting for the
205 expenditures authorized by the board.

206 (4) The board shall submit a report to the department for inclusion in the annual
207 written report described in Section [35A-1-109](#) that includes:

208 (a) an accounting for expenditures authorized by the board; and

209 (b) an evaluation of the effectiveness of the program.

210 Section 8. Section **63J-1-602.2** is amended to read:

211 **63J-1-602.2. List of nonlapsing funds and accounts -- Title 31 through Title 45.**

- 212 (1) Appropriations from the Technology Development Restricted Account created in
213 Section [31A-3-104](#).
- 214 (2) Appropriations from the Criminal Background Check Restricted Account created in
215 Section [31A-3-105](#).
- 216 (3) Appropriations from the Captive Insurance Restricted Account created in Section
217 [31A-3-304](#), except to the extent that Section [31A-3-304](#) makes the money received under that
218 section free revenue.
- 219 (4) Appropriations from the Title Licensee Enforcement Restricted Account created in
220 Section [31A-23a-415](#).
- 221 (5) Appropriations from the Health Insurance Actuarial Review Restricted Account
222 created in Section [31A-30-115](#).
- 223 (6) Appropriations from the Insurance Fraud Investigation Restricted Account created
224 in Section [31A-31-108](#).
- 225 (7) Appropriations from the Underage Drinking Prevention Media and Education
226 Campaign Restricted Account created in Section [32B-2-306](#).
- 227 (8) Funding for the General Assistance program administered by the Department of
228 Workforce Services, as provided in Section [35A-3-401](#).
- 229 (9) The Economic Revitalization and Investment Restricted Account created in Section
230 [35A-8-509](#).
- 231 [~~(9)~~] (10) The Youth Development Organization Restricted Account created in Section
232 [35A-8-1903](#).
- 233 [~~(10)~~] (11) The Youth Character Organization Restricted Account created in Section
234 [35A-8-2003](#).
- 235 [~~(11)~~] (12) Funding for a new program or agency that is designated as nonlapsing under
236 Section [36-24-101](#).
- 237 [~~(12)~~] (13) Appropriations to the Utah National Guard, created in Title 39, Militia and
238 Armories.
- 239 [~~(13)~~] (14) Appropriations from the Oil and Gas Conservation Account created in
240 Section [40-6-14.5](#).
- 241 [~~(14)~~] (15) Appropriations from the Electronic Payment Fee Restricted Account
242 created by Section [41-1a-121](#) to the Motor Vehicle Division.

243 [~~(15)~~] (16) Funds available to the Tax Commission under Section [41-1a-1201](#) for the:
244 (a) purchase and distribution of license plates and decals; and
245 (b) administration and enforcement of motor vehicle registration requirements.
246 [~~(16)~~] (17) Appropriations from the Motor Vehicle Enforcement Division Temporary
247 Permit Restricted Account created by Section [41-3-110](#) to the Tax Commission.