

COMMUNITY REINVESTMENT AGENCY REVISIONS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel McCay

Senate Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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

▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

REPEALS:

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

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

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



28 **17C-1-102. Definitions.**

29 As used in this title:

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

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

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

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

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

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

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

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

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

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

49 (c) whose geographic boundaries are coterminous with:

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

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

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

54 (a) project area funds;

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

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

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

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

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

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

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

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

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

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

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

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

79 or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

120 (23) "Economic development project area plan" means a project area plan adopted

121 under Chapter 3, Part 1, Economic Development Project Area Plan.

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

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

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

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

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

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

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

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

143 (a) project area funds allocated for the purposes described in Section [17C-1-411](#); or
144 (b) an agency's housing allocation.

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

146 (i) consists of at least 100 acres;

147 (ii) is occupied by an airport:

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

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

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

151 (B) that is owned or was formerly owned and operated by a public entity; and

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

183 taxable value.

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

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

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

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

193 (a) includes a description of:

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

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

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

197 and

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

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

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

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

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

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

211 (b) not dedicated to public use.

212 (45) "Project area" means the geographic area described in a project area plan within
213 which the project area development described in the project area plan takes place or is

214 proposed to take place.

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

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

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

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

244 (48) "Project area funds" means tax increment or sales and use tax revenue that an

245 agency receives under a project area budget adopted by a taxing entity committee or an
246 interlocal agreement.

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

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

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

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

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

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

262 (52) "Public entity" means:

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

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

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

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

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

275 (55) "Sales and use tax revenue" means revenue that is:

276 (a) generated from a tax imposed under Title 59, Chapter 12, Sales and Use Tax Act;
277 and

278 (b) distributed to a taxing entity in accordance with Sections 59-12-204 and 59-12-205.

279 (56) "Superfund site":

280 (a) means an area included in the National Priorities List under the Comprehensive
281 Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sec. 9605; and

282 (b) includes an area formerly included in the National Priorities List, as described in
283 Subsection (56)(a), but removed from the list following remediation that leaves on site the
284 waste that caused the area to be included in the National Priorities List.

285 (57) "Survey area" means a geographic area designated for study by a survey area
286 resolution to determine whether one or more project areas within the survey area are feasible.

287 (58) "Survey area resolution" means a resolution adopted by a board under Subsection
288 17C-2-101.5(1) or 17C-5-103(1) designating a survey area.

289 (59) "Taxable value" means:

290 (a) the taxable value of all real property a county assessor assesses in accordance with
291 Title 59, Chapter 2, Part 3, County Assessment, for the current year;

292 (b) the taxable value of all real and personal property the commission assesses in
293 accordance with Title 59, Chapter 2, Part 2, Assessment of Property, for the current year; and

294 (c) the year end taxable value of all personal property a county assessor assesses in
295 accordance with Title 59, Chapter 2, Part 3, County Assessment, contained on the prior year's
296 tax rolls of the taxing entity.

297 (60) (a) "Tax increment" means the difference between:

298 (i) the amount of property tax revenue generated each tax year by a taxing entity from
299 the area within a project area designated in the project area plan as the area from which tax
300 increment is to be collected, using the current assessed value of the property; and

301 (ii) the amount of property tax revenue that would be generated from that same area
302 using the base taxable value of the property.

303 (b) "Tax increment" does not include taxes levied and collected under Section
304 59-2-1602 on or after January 1, 1994, upon the taxable property in the project area unless:

305 (i) the project area plan was adopted before May 4, 1993, whether or not the project
306 area plan was subsequently amended; and

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

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

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

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

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

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

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

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

318 **17C-1-412. Use of housing allocation -- Separate accounting required -- Issuance**
319 **of bonds for housing -- Action to compel agency to provide housing allocation.**

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

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

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

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

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

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

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

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

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

337 (B) all or part of the proceeds of which are used within the community for the purposes

338 stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi);

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

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

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

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

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

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

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

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

353 (A) income targeted housing within the county;

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

356 (C) homeless assistance within the county; or

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

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

363 (3) An agency may:

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

367 (b) issue refunding bonds for the payment or retirement of bonds under Subsection
368 (3)(a) previously issued by the agency.

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

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

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

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

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

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

382 **Section 3. Repealer.**

383 This bill repeals:

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

Legislative Review Note
Office of Legislative Research and General Counsel