

COMMUNITY REINVESTMENT AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jeremy A. Peterson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to eminent domain in Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act.

Highlighted Provisions:

This bill:

- ▶ authorizes a community reinvestment agency to amend a community reinvestment project area that is subject to an interlocal agreement for the purpose of acquiring property within the community reinvestment project area by eminent domain; and
- ▶ makes technical and conforming 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-1-902**, as renumbered and amended by Laws of Utah 2016, Chapter 350
- 17C-1-904**, as renumbered and amended by Laws of Utah 2016, Chapter 350
- 17C-5-103**, as enacted by Laws of Utah 2016, Chapter 350
- 17C-5-104**, as enacted by Laws of Utah 2016, Chapter 350



- 28 17C-5-112, as enacted by Laws of Utah 2016, Chapter 350
- 29 17C-5-202, as enacted by Laws of Utah 2016, Chapter 350
- 30 17C-5-203, as enacted by Laws of Utah 2016, Chapter 350
- 31 17C-5-306, as enacted by Laws of Utah 2016, Chapter 350
- 32 17C-5-402, as enacted by Laws of Utah 2016, Chapter 350
- 33 17C-5-403, as enacted by Laws of Utah 2016, Chapter 350

34

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

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

37 **17C-1-102. Definitions.**

38 As used in this title:

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

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

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

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

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

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

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

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

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

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

58 (c) whose geographic boundaries are coterminous with:

- 59 (i) for an agency created by a county, the unincorporated area of the county; and
60 (ii) for an agency created by a municipality, the boundaries of the municipality.
- 61 (5) "Agency funds" means money that an agency collects or receives for the purposes
62 of agency operations or implementing a project area plan, including:
- 63 (a) project area funds;
64 (b) income, proceeds, revenue, or property derived from or held in connection with the
65 agency's undertaking and implementation of project area development; or
66 (c) a contribution, loan, grant, or other financial assistance from any public or private
67 source.
- 68 (6) "Annual income" means the same as that term is defined in regulations of the
69 United States Department of Housing and Urban Development, 24 C.F.R. Sec. 5.609, as
70 amended or as superseded by replacement regulations.
- 71 (7) "Assessment roll" means the same as that term is defined in Section [59-2-102](#).
- 72 (8) "Base taxable value" means, unless otherwise adjusted in accordance with
73 provisions of this title, a property's taxable value as shown upon the assessment roll last
74 equalized during the base year.
- 75 (9) "Base year" means, except as provided in Subsection [17C-1-402\(4\)\(c\)](#), the year
76 during which the assessment roll is last equalized:
- 77 (a) for a pre-July 1, 1993, urban renewal or economic development project area plan,
78 before the project area plan's effective date;
- 79 (b) for a post-June 30, 1993, urban renewal or economic development project area
80 plan, or a community reinvestment project area plan that is subject to a taxing entity
81 committee:
- 82 (i) before the date on which the taxing entity committee approves the project area
83 budget; or
84 (ii) if taxing entity committee approval is not required for the project area budget,
85 before the date on which the community legislative body adopts the project area plan;
- 86 (c) for a project on an inactive airport site, after the later of:
- 87 (i) the date on which the inactive airport site is sold for remediation and development;
88 or
89 (ii) the date on which the airport that operated on the inactive airport site ceased

90 operations; or

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

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

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

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

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

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

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

107 (14) "Board" means the governing body of an agency, as described in Section
108 17C-1-203.

109 (15) "Budget hearing" means the public hearing on a proposed project area budget
110 required under Subsection 17C-2-201(2)(d) for an urban renewal project area budget,
111 Subsection 17C-3-201(2)(d) for an economic development project area budget, or Subsection
112 17C-5-302(2)(e) for a community reinvestment project area budget.

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

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

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

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

123 (20) "Community legislative body" means the legislative body of the community that
124 created the agency.

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

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

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

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

132 (a) for a municipality, comparing the percentage of all housing units within the
133 municipality that are publicly subsidized income targeted housing units to the percentage of all
134 housing units within the county in which the municipality is located that are publicly
135 subsidized income targeted housing units; or

136 (b) for the unincorporated part of a county, comparing the percentage of all housing
137 units within the unincorporated county that are publicly subsidized income targeted housing
138 units to the percentage of all housing units within the whole county that are publicly subsidized
139 income targeted housing units.

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

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

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

148 (28) "Housing allocation" means tax increment allocated for housing under Section
149 [17C-2-203](#), [17C-3-202](#), or [17C-5-307](#) for the purposes described in Section [17C-1-412](#).

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

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

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

155 (i) consists of at least 100 acres;

156 (ii) is occupied by an airport:

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

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

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

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

161 (iii) requires remediation because:

162 (A) of the presence of hazardous waste or solid waste; or

163 (B) the site lacks sufficient public infrastructure and facilities, including public roads,
164 electric service, water system, and sewer system, needed to support development of the site.

165 (b) "Inactive airport site" includes a perimeter of up to 2,500 feet around the land
166 described in Subsection (30)(a).

167 (31) (a) "Inactive industrial site" means land that:

168 (i) consists of at least 1,000 acres;

169 (ii) is occupied by an inactive or abandoned factory, smelter, or other heavy industrial
170 facility; and

171 (iii) requires remediation because of the presence of hazardous waste or solid waste.

172 (b) "Inactive industrial site" includes a perimeter of up to 1,500 feet around the land
173 described in Subsection (31)(a).

174 (32) "Income targeted housing" means housing that is owned or occupied by a family
175 whose annual income is at or below 80% of the median annual income for a family within the
176 county in which the housing is located.

177 (33) "Incremental value" means a figure derived by multiplying the marginal value of
178 the property located within a project area on which tax increment is collected by a number that
179 represents the adjusted tax increment from that project area that is paid to the agency.

180 (34) "Loan fund board" means the Olene Walker Housing Loan Fund Board,
181 established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.

182 (35) (a) " Local government building" means a building owned and operated by a

183 community for the primary purpose of providing one or more primary community functions,
184 including:

- 185 (i) a fire station;
- 186 (ii) a police station;
- 187 (iii) a city hall; or
- 188 (iv) a court or other judicial building.

189 (b) "Local government building" does not include a building the primary purpose of
190 which is cultural or recreational in nature.

191 (36) "Marginal value" means the difference between actual taxable value and base
192 taxable value.

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

196 (38) "Municipality" means a city, town, or metro township as defined in Section
197 [10-2a-403](#).

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

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

202 (a) includes a description of:

- 203 (i) the project area development that the person will undertake;
- 204 (ii) the amount of project area funds the person may receive; and
- 205 (iii) the terms and conditions under which the person may receive project area funds;

206 and

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

208 (41) "Plan hearing" means the public hearing on a proposed project area plan required
209 under Subsection [17C-2-102\(1\)\(a\)\(vi\)](#) for an urban renewal project area plan, Subsection
210 [17C-3-102\(1\)\(d\)](#) for an economic development project area plan, Subsection [17C-4-102\(1\)\(d\)](#)
211 for a community development project area plan, or Subsection [17C-5-104\(3\)\(e\)](#) for a
212 community reinvestment project area plan.

213 (42) "Post-June 30, 1993, project area plan" means a project area plan adopted on or

214 after July 1, 1993, and before May 10, 2016, whether or not amended subsequent to the project
215 area plan's adoption.

216 (43) "Pre-July 1, 1993, project area plan" means a project area plan adopted before July
217 1, 1993, whether or not amended subsequent to the project area plan's adoption.

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

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

220 (b) not dedicated to public use.

221 (45) "Project area" means the geographic area described in a project area plan within
222 which the project area development described in the project area plan takes place or is
223 proposed to take place.

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

227 (a) for an urban renewal project area, Section [17C-2-202](#);

228 (b) for an economic development project area, Section [17C-3-202](#);

229 (c) for a community development project area, Section [17C-4-204](#); or

230 (d) for a community reinvestment project area, Section [17C-5-302](#).

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

234 (a) promoting, creating, or retaining public or private jobs within the state or a
235 community;

236 (b) providing office, manufacturing, warehousing, distribution, parking, or other
237 facilities or improvements;

238 (c) planning, designing, demolishing, clearing, constructing, rehabilitating, or
239 remediating environmental issues;

240 (d) providing residential, commercial, industrial, public, or other structures or spaces,
241 including recreational and other facilities incidental or appurtenant to the structures or spaces;

242 (e) altering, improving, modernizing, demolishing, reconstructing, or rehabilitating
243 existing structures;

244 (f) providing open space, including streets or other public grounds or space around

245 buildings;

246 (g) providing public or private buildings, infrastructure, structures, or improvements;

247 (h) relocating a business;

248 (i) improving public or private recreation areas or other public grounds;

249 (j) eliminating blight or the causes of blight;

250 (k) redevelopment as defined under the law in effect before May 1, 2006; or

251 (l) any activity described in Subsections (47)(a) through (k) outside of a project area

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

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

254 agency receives under a project area budget adopted by a taxing entity committee or an

255 interlocal agreement.

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

257 (a) begins the day on which the first payment of project area funds is distributed to an

258 agency under a project area budget adopted by a taxing entity committee or an interlocal

259 agreement; and

260 (b) ends the day on which the last payment of project area funds is distributed to an

261 agency under a project area budget adopted by a taxing entity committee or an interlocal

262 agreement.

263 (50) "Project area plan" means an urban renewal project area plan, an economic

264 development project area plan, a community development project area plan, or a community

265 reinvestment project area plan that, after the project area plan's effective date, guides and

266 controls the project area development.

267 (51) (a) "Property tax" means each levy on an ad valorem basis on tangible or

268 intangible personal or real property.

269 (b) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4, Privilege

270 Tax.

271 (52) "Public entity" means:

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

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

274 (c) a political subdivision of the state, including a county, municipality, school district,

275 local district, special service district, or interlocal cooperation entity.

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

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

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

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

286 and

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

288 (56) "Superfund site":

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

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

294 (57) "Survey area" means a geographic area designated for study by a survey area
295 resolution to determine whether:

296 (a) one or more project areas within the survey area are feasible; or

297 (b) blight exists within the survey area.

298 (58) "Survey area resolution" means a resolution adopted by a board [~~under Subsection~~
299 ~~17C-2-101.5(1) or 17C-5-103(1) designating a survey area~~] that designates a survey area.

300 (59) "Taxable value" means:

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

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

305 (c) the year end taxable value of all personal property a county assessor assesses in
306 accordance with Title 59, Chapter 2, Part 3, County Assessment, contained on the prior year's

307 tax rolls of the taxing entity.

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

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

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

314 (b) "Tax increment" does not include taxes levied and collected under Section

315 [59-2-1602](#) on or after January 1, 1994, upon the taxable property in the project area unless:

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

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

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

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

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

323 (62) "Taxing entity committee" means a committee representing the interests of taxing
324 entities, created in accordance with Section [17C-1-402](#).

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

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

328 Section 2. Section **17C-1-902** is amended to read:

329 **17C-1-902. Use of eminent domain -- Conditions.**

330 (1) Except as provided in Subsection (2), an agency may not use eminent domain to
331 acquire property.

332 (2) Subject to the provisions of this part, an agency may, in accordance with Title 78B,
333 Chapter 6, Part 5, Eminent Domain, use eminent domain to acquire an interest in property:

334 (a) within an urban renewal project area if:

335 (i) the board makes a finding of blight under Chapter 2, Part 3, Blight Determination in
336 Urban Renewal Project Areas; and

337 (ii) the urban renewal project area plan provides for the use of eminent domain;

338 (b) that is owned by an agency board member or officer and located within a project
339 area, if the board member or officer consents;

340 (c) within a community reinvestment project area if:

341 (i) the board makes a finding of blight [~~under Section 17C-5-405~~] in accordance with
342 Chapter 5, Part 4, Blight Determination in a Community Reinvestment Project Area;

343 (ii) (A) the original community reinvestment project area plan provides for the use of
344 eminent domain; or

345 (B) the community reinvestment project area plan is amended in accordance with
346 Subsection 17C-5-112(4); and

347 (iii) the agency creates a taxing entity committee in accordance with Section
348 17C-1-402;

349 (d) that:

350 (i) is owned by a participant or a property owner that is entitled to receive tax
351 increment or other assistance from the agency;

352 (ii) is within a project area, regardless of when the project area is created, for which the
353 agency made a finding of blight under Section 17C-2-102 or 17C-5-405; and

354 (iii) (A) the participant or property owner described in Subsection (2)(d)(i) fails to
355 develop or improve in accordance with the participation agreement or the project area plan; or

356 (B) for a period of 36 months does not generate the amount of tax increment that the
357 agency projected to receive under the project area budget; or

358 (e) if a property owner requests in writing that the agency exercise eminent domain to
359 acquire the property owner's property within a project area.

360 (3) An agency shall, in accordance with the provisions of this part, commence the
361 acquisition of property described in Subsections (2)(a) through (c) by eminent domain within
362 five years after the day on which the project area plan is effective.

363 Section 3. Section 17C-1-904 is amended to read:

364 **17C-1-904. Acquiring single family owner occupied residential property or**
365 **commercial property -- Acquiring property already devoted to a public use -- Relocation**
366 **assistance requirement.**

367 (1) As used in this section:

368 (a) "Commercial property" means real property used, in whole or in part, by the owner

369 or possessor of the property for a commercial, industrial, retail, or other business purpose,
370 regardless of the identity of the property owner.

371 (b) "Owner occupied property" means private real property that is:

372 (i) used for a single-family residential or commercial purpose; and

373 (ii) occupied by the owner of the property.

374 (c) "Relevant area" means:

375 (i) except as provided in Subsection (1)(c)(ii), the project area; or

376 (ii) (A) the area included within a phase of a project under a project area plan if the

377 phase and the area included within the phase are described in the project area plan; or

378 (B) the parcel or parcels that are the subject of a community reinvestment project area

379 plan amendment under Subsection 17C-5-112(4).

380 (2) An agency may not initiate an action in district court to acquire by eminent domain
381 a residential owner occupied property unless:

382 (a) (i) a written petition requesting the agency to use eminent domain to acquire the

383 property is submitted by the owners of at least 80% of the residential owner occupied property

384 within the relevant area representing at least 70% of the value of residential owner occupied

385 property within the relevant area; or

386 (ii) a written petition of 90% of the owners of real property, including property owned

387 by the agency or a public entity within the project area, is submitted to the agency, requesting

388 the use of eminent domain to acquire the property; and

389 (b) at least two-thirds of all board members vote in favor of using eminent domain to

390 acquire the property.

391 (3) An agency may not initiate an action in district court to acquire commercial owner
392 occupied property by eminent domain unless:

393 (a) a written petition requesting the agency to use eminent domain to acquire the

394 property is submitted by the owners of at least 75% of the commercial property within the

395 relevant area representing at least 60% of the value of commercial property within the relevant

396 area; and

397 (b) at least two-thirds of all board members vote in favor of using eminent domain to

398 acquire the property.

399 (4) For purposes of this section an owner is considered to have signed a petition if:

400 (a) owners representing a majority ownership interest in the property sign the petition;
401 or

402 (b) if the property is owned by joint tenants or tenants by the entirety, 50% of the
403 number of owners of the property sign the petition.

404 (5) An agency may not acquire by eminent domain any real property on which an
405 existing building is to be continued on the building's present site and in the building's present
406 form and use unless:

407 (a) the building requires structural alteration, improvement, modernization, or
408 rehabilitation;

409 (b) the site or lot on which the building is situated requires modification in size, shape,
410 or use; or

411 (c) (i) it is necessary to impose upon the property a standard, restriction, or control of
412 the project area plan; and

413 (ii) the owner fails or refuses to agree to participate in the project area plan.

414 (6) An agency may not acquire by eminent domain property that is owned by a public
415 entity.

416 (7) An agency that acquires property by eminent domain shall comply with Title 57,
417 Chapter 12, Utah Relocation Assistance Act.

418 Section 4. Section **17C-5-103** is amended to read:

419 **17C-5-103. Initiating a community reinvestment project area plan.**

420 (1) [~~A~~] Subject to Subsection (2), a board shall initiate the process of adopting a
421 community reinvestment project area plan by adopting a survey area resolution that:

422 (a) designates a geographic area located within the agency's boundaries as a survey
423 area;

424 (b) contains a description or map of the boundaries of the survey area;

425 (c) contains a statement that the survey area requires study to determine whether
426 project area development is feasible within one or more proposed community reinvestment
427 project areas within the survey area; and

428 (d) authorizes the agency to:

429 (i) prepare a proposed community reinvestment project area plan for each proposed
430 community reinvestment project area; and

431 (ii) conduct any examination, investigation, or negotiation regarding the proposed
432 community reinvestment project area that the agency considers appropriate.

433 (2) If an agency anticipates [~~an activity described in Subsection 17C-5-402(1)~~] using
434 eminent domain to acquire property within the survey area, the resolution described in
435 Subsection (1) shall include:

436 (a) a statement that the survey area requires study to determine whether blight exists
437 within the survey area; and

438 (b) authorization for the agency to conduct a blight study in accordance with Section
439 17C-5-403.

440 Section 5. Section 17C-5-104 is amended to read:

441 **17C-5-104. Process for adopting a community reinvestment project area plan --**
442 **Prerequisites -- Restrictions.**

443 (1) An agency may not propose a community reinvestment project area plan unless the
444 community in which the proposed community reinvestment project area plan is located:

445 (a) has a planning commission; and

446 (b) has adopted a general plan under:

447 (i) if the community is a municipality, Title 10, Chapter 9a, Part 4, General Plan; or

448 (ii) if the community is a county, Title 17, Chapter 27a, Part 4, General Plan.

449 (2) (a) Before an agency may adopt a proposed community reinvestment project area
450 plan, the agency shall conduct a blight study and make a blight determination in accordance
451 with [~~Section 17C-5-402~~] Part 4, Blight Determination in a Community Reinvestment Project
452 Area, if the agency anticipates [~~an activity described in Subsection 17C-5-402(1) for which a~~
453 ~~blight determination is required~~] using eminent domain to acquire property within the proposed
454 community reinvestment project area.

455 (b) If applicable, an agency may not approve a community reinvestment project area
456 plan more than one year after the [~~adoption of a~~] agency adopts a resolution making a finding
457 of blight under Section 17C-5-402.

458 (3) To adopt a community reinvestment project area plan, an agency shall:

459 (a) prepare a proposed community reinvestment project area plan in accordance with
460 Section 17C-5-105;

461 (b) make the proposed community reinvestment project area plan available to the

462 public at the agency's office during normal business hours for at least 30 days before the plan
463 hearing described in Subsection (3)(e);

464 (c) before holding the plan hearing described in Subsection (3)(e), provide an
465 opportunity for the State Board of Education and each taxing entity that levies or imposes a tax
466 within the proposed community reinvestment project area to consult with the agency regarding
467 the proposed community reinvestment project area plan;

468 (d) provide notice of the plan hearing in accordance with Chapter 1, Part 8, Hearing
469 and Notice Requirements;

470 (e) hold a plan hearing on the proposed community reinvestment project area plan and,
471 at the plan hearing:

472 (i) allow public comment on:

473 (A) the proposed community reinvestment project area plan; and

474 (B) whether the agency should revise, approve, or reject the proposed community
475 reinvestment project area plan; and

476 (ii) receive all written and oral objections to the proposed community reinvestment
477 project area plan; and

478 (f) following the plan hearing described in Subsection (3)(e), or at a subsequent agency
479 meeting:

480 (i) consider:

481 (A) the oral and written objections to the proposed community reinvestment project
482 area plan and evidence and testimony for and against adoption of the proposed community
483 reinvestment project area plan; and

484 (B) whether to revise, approve, or reject the proposed community reinvestment project
485 area plan;

486 (ii) adopt a resolution in accordance with Section [17C-5-108](#) that approves the
487 proposed community reinvestment project area plan, with or without revisions, as the
488 community reinvestment project area plan; and

489 (iii) submit the community reinvestment project area plan to the community legislative
490 body for adoption.

491 (4) (a) Except as provided in Subsection (4)(b), an agency may not modify a proposed
492 community reinvestment project area plan to add a parcel to the proposed community

493 reinvestment project area unless the agency holds a plan hearing to consider the addition and
494 gives notice of the plan hearing in accordance with Chapter 1, Part 8, Hearing and Notice
495 Requirements.

496 (b) The notice and hearing requirements described in Subsection (4)(a) do not apply to
497 a proposed community reinvestment project area plan being modified to add a parcel to the
498 proposed community reinvestment project area if:

499 (i) the parcel is contiguous to one or more parcels already included in the proposed
500 community reinvestment project area under the proposed community reinvestment project area
501 plan;

502 (ii) the record owner of the parcel consents to adding the parcel to the proposed
503 community reinvestment project area; and

504 (iii) the parcel is located within the survey area.

505 Section 6. Section **17C-5-112** is amended to read:

506 **17C-5-112. Amending a community reinvestment project area plan.**

507 (1) An agency may amend a community reinvestment project area plan in accordance
508 with this section.

509 (2) (a) If an amendment proposes to enlarge a community reinvestment project area's
510 geographic area, the agency shall:

511 (i) comply with this part as though the agency were creating a community reinvestment
512 project area;

513 (ii) if the agency anticipates receiving project area funds from the area proposed to be
514 added to the community reinvestment project area, before the agency may collect project area
515 funds:

516 (A) for a community reinvestment project area plan that is subject to a taxing entity
517 committee, obtain approval to receive tax increment from the taxing entity committee; or

518 (B) for a community reinvestment project area plan that is subject to an interlocal
519 agreement, obtain the approval of the taxing entity that is a party to the interlocal agreement;
520 and

521 (iii) if the agency anticipates [~~activity within the area proposed to be added to the~~
522 ~~community reinvestment project area that requires a finding of blight under Subsection~~
523 ~~17C-5-402(1)] acquiring property in the area proposed to be added to the community~~

524 reinvestment project area by eminent domain, follow the procedures described in Section
525 17C-5-402.

526 (b) The base year for the area proposed to be added to the community reinvestment
527 project area shall be determined using the date of:

528 (i) the taxing entity committee's consent as described in Subsection (2)(a)(ii)(A); or
529 (ii) the taxing entity's consent as described in Subsection (2)(a)(ii)(B).

530 (3) If an amendment does not propose to enlarge a community reinvestment project
531 area's geographic area, the board may adopt a resolution approving the amendment after the
532 agency:

533 (a) if the amendment does not propose to allow the agency to receive a greater amount
534 of project area funds or to extend a project area funds collection period:

535 (i) gives notice in accordance with Section 17C-1-806; and

536 (ii) holds a public hearing on the proposed amendment that meets the requirements
537 described in [~~Subsection 17C-5-104(2)~~] Section 17C-1-808; or

538 (b) if the amendment proposes to also allow the agency to receive a greater amount of
539 project area funds or to extend a project area funds collection period:

540 (i) complies with Subsection (3)(a)(i) and (ii); and

541 (ii) (A) for a community reinvestment project area plan that is subject to a taxing entity
542 committee, obtains approval from the taxing entity committee; or

543 (B) for a community reinvestment project area plan that is subject to an interlocal
544 agreement, obtains approval to receive project area funds from the taxing entity that is a party
545 to the interlocal agreement.

546 (4) (a) An agency may amend a community reinvestment project area plan for a
547 community reinvestment project area that is subject to an interlocal agreement for the purpose
548 of using eminent domain to acquire one or more parcels within the community reinvestment
549 project area.

550 (b) To amend a community reinvestment project area plan as described in Subsection
551 (4)(a), an agency shall:

552 (i) adopt a survey area resolution that identifies each parcel that the agency intends to
553 study to determine whether blight exists;

554 (ii) in accordance with Part 4, Blight Determination in a Community Reinvestment

555 Project Area, conduct a blight study within the survey area and make a blight determination;

556 (iii) create a taxing entity committee whose sole purpose is to approve any finding of
557 blight in accordance with Subsection 17C-5-402(3); and

558 (iv) obtain approval to amend the community reinvestment project area plan from each
559 taxing entity that is party to an interlocal agreement.

560 (c) Amending a community reinvestment project area plan as described in this
561 Subsection (4) does not affect:

562 (i) the base year of the parcel or parcels that are the subject of an amendment under this
563 Subsection (4); and

564 (ii) any interlocal agreement under which the agency is authorized to receive project
565 area funds from the community reinvestment project area.

566 [~~4~~] (5) An agency may amend a community reinvestment project area plan without
567 obtaining the consent of a taxing entity or a taxing entity committee and without providing
568 notice or holding a public hearing if the amendment:

569 (a) makes a minor adjustment in the community reinvestment project area boundary
570 that is requested by a county assessor or county auditor to avoid inconsistent property boundary
571 lines; or

572 (b) removes a parcel from a community reinvestment project area because the agency
573 determines that the parcel is:

574 (i) tax exempt;

575 (ii) no longer blighted; or

576 (iii) no longer necessary or desirable to the project area.

577 [~~5~~] (6) (a) An amendment approved by board resolution under this section may not
578 take effect until the community legislative body adopts an ordinance approving the
579 amendment.

580 (b) Upon the community legislative body adopting an ordinance approving an
581 amendment under Subsection [~~5~~] (6)(a), the agency shall comply with the requirements
582 described in Sections 17C-5-110 and 17C-5-111 as if the amendment were a community
583 reinvestment project area plan.

584 [~~6~~] (7) (a) Within 30 days after the day on which an amendment to a project area plan
585 becomes effective, a person may contest the amendment to the project area plan or the

586 procedure used to adopt the amendment to the project area plan if the amendment or procedure
587 fails to comply with a provision of this title.

588 (b) After the 30-day period described in Subsection ~~[(6)]~~ (7)(a) expires, a person may
589 not contest the amendment to the project area plan or procedure used to adopt the amendment
590 to the project area plan for any cause.

591 Section 7. Section **17C-5-202** is amended to read:

592 **17C-5-202. Community reinvestment project area funding options.**

593 (1) (a) Except as provided in Subsection ~~[(1)(b)]~~ (2), for the purpose of receiving
594 project area funds for use within a community reinvestment project area, an agency shall
595 negotiate and enter into an interlocal agreement with a taxing entity in accordance with Section
596 **17C-5-204** to receive all or a portion of the taxing entity's tax increment or sales and use tax
597 revenue in accordance with the interlocal agreement.

598 (b) If a community reinvestment project area is subject to an interlocal agreement
599 under Subsection (1)(a) and the agency subsequently amends the community reinvestment
600 project area plan as described in Subsection **17C-5-112**(4), the agency shall continue to receive
601 project area funds under the interlocal agreement.

602 ~~[(b)]~~ (2) If an agency plans ~~[to use]~~ to create a community reinvestment project area
603 and adopt a community reinvestment project area plan that provides for the use of eminent
604 domain to acquire property within ~~[a]~~ the community reinvestment project area, the agency
605 shall create a taxing entity committee as described in Section **17C-1-402** and receive tax
606 increment in accordance with Section **17C-5-203**.

607 ~~[(2)]~~ (3) An agency shall comply with Chapter 5, Part 3, Community Reinvestment
608 Project Area Budget, regardless of whether an agency enters into an interlocal agreement under
609 Subsection (1)~~[(a)]~~ or creates a taxing entity committee under Subsection ~~[(1)(b)]~~ (2).

610 Section 8. Section **17C-5-203** is amended to read:

611 **17C-5-203. Community reinvestment project area subject to taxing entity**
612 **committee -- Tax increment.**

613 (1) This section applies to a community reinvestment project area that is subject to a
614 taxing entity committee under Subsection **17C-5-202**~~[(1)(b)]~~(2).

615 (2) Subject to the taxing entity committee's approval of a community reinvestment
616 project area budget under Section **17C-5-304**, and for the purpose of implementing a

617 community reinvestment project area plan, an agency may receive up to 100% of a taxing
618 entity's tax increment, or any specified dollar amount of tax increment, for any period of time.

619 (3) Notwithstanding Subsection (2), an agency that adopts a community reinvestment
620 project area plan that is subject to a taxing entity committee may negotiate and enter into an
621 interlocal agreement with a taxing entity and receive all or a portion of the taxing entity's sales
622 and use tax revenue for any period of time.

623 Section 9. Section **17C-5-306** is amended to read:

624 **17C-5-306. Amending a community reinvestment project area budget.**

625 (1) Before a project area funds collection period ends, an agency may amend a
626 community reinvestment project area budget in accordance with this section.

627 (2) To amend a community reinvestment project area budget, an agency shall:

628 (a) provide notice and hold a public hearing on the proposed amendment in accordance
629 with Chapter 1, Part 8, Hearing and Notice Requirements;

630 (b) (i) if the community reinvestment project area budget required approval from a
631 taxing entity committee, obtain the taxing entity committee's approval; or

632 (ii) if the community reinvestment project area budget required an interlocal agreement
633 with a taxing entity, obtain approval from the taxing entity that is a party to the interlocal
634 agreement; and

635 (c) at the public hearing described in Subsection (2)(a) or at a subsequent board
636 meeting, by resolution, adopt the community reinvestment project area budget amendment.

637 (3) If an agency proposes a community reinvestment project area budget amendment
638 under which the agency is paid a greater proportion of tax increment from the community
639 reinvestment project area than provided under the community reinvestment project area budget,
640 the notice described in Subsection (2)(a) shall state:

641 (a) the percentage of tax increment paid under the community reinvestment project
642 area budget; and

643 (b) the proposed percentage of tax increment paid under the community reinvestment
644 project area budget amendment.

645 (4) (a) If an agency proposes a community reinvestment project area budget
646 amendment that extends a project area funds collection period, before a taxing entity
647 committee or taxing entity may provide the taxing entity committee's or taxing entity's approval

648 described in Subsection (2)(b), the agency shall provide to the taxing entity committee or
649 taxing entity:

- 650 (i) the reasons why the extension is required;
- 651 (ii) a description of the project area development for which project area funds received
652 by the agency under the extension will be used;
- 653 (iii) a statement of whether the project area funds received by the agency under the
654 extension will be used within an active project area or a proposed project area; and
- 655 (iv) a revised community reinvestment project area budget that includes:
 - 656 (A) the annual and total amounts of project area funds that the agency receives under
657 the extension; and
 - 658 (B) the number of years that are added to each project area funds collection period
659 under the extension.

660 (b) With respect to an amendment described in Subsection (4)(a), a taxing entity
661 committee or taxing entity may consent to:

- 662 (i) allow an agency to use project area funds received under an extension within a
663 different project area from which the project area funds are generated; or
- 664 (ii) alter the base taxable value in connection with a community reinvestment project
665 area budget extension.

666 (5) If an agency proposes a community reinvestment project area budget amendment
667 that reduces the base taxable value of the project area due to the removal of a parcel under
668 Subsection [17C-5-112](#)~~(4)~~(5)(b), an agency may amend a project area budget without:

- 669 (a) complying with Subsection (2)(a); and
- 670 (b) obtaining taxing entity committee or taxing entity approval described in Subsection
671 (2)(b).

672 (6) (a) A person may contest an agency's adoption of a community reinvestment project
673 area budget amendment within 30 days after the day on which the agency adopts the
674 community reinvestment project area budget amendment.

675 (b) After the 30-day period described in Subsection (6)(a), a person may not contest:

- 676 (i) the agency's adoption of the community reinvestment project area budget
677 amendment;
- 678 (ii) a payment to the agency under the community reinvestment project area budget

679 amendment; or

680 (iii) the agency's use of project area funds received under the community reinvestment
681 project area budget amendment.

682 Section 10. Section **17C-5-402** is amended to read:

683 **17C-5-402. Blight determination in a community reinvestment project area --**
684 **Prerequisites -- Restrictions.**

685 (1) An agency shall comply with the provisions of this section before the agency may
686 use eminent domain to acquire property under Chapter 1, Part 9, Eminent Domain.

687 (2) An agency shall, after adopting a survey area resolution as described in Section
688 **17C-5-103**:

689 (a) cause a blight study to be conducted within the survey area in accordance with
690 Section **17C-5-403**;

691 (b) provide notice and hold a blight hearing in accordance with Chapter 1, Part 8,
692 Hearing and Notice Requirements; and

693 (c) after the blight hearing, at the same or at a subsequent meeting:

694 (i) consider~~[(A)]~~ the issue of blight and the evidence and information relating to the
695 existence or nonexistence of blight; and

696 ~~[(B) whether the agency should pursue adoption of one or more community
697 reinvestment project area plans; and]~~

698 (ii) by resolution, make a finding regarding whether blight exists in ~~[the proposed
699 community reinvestment project]~~ all or part of the survey area.

700 (3) (a) If an agency makes a finding of blight under Subsection (2), the agency may not
701 adopt ~~[the]~~ an original community reinvestment project area plan or an amendment to a
702 community reinvestment project area plan under Subsection **17C-5-112(4)** until the taxing
703 entity committee approves the finding of blight.

704 (b) (i) A taxing entity committee shall approve an agency's finding of blight unless the
705 taxing entity committee demonstrates that the conditions the agency found to exist in the
706 ~~[community reinvestment project]~~ survey area that support the agency's finding of blight:

707 (A) do not exist; or

708 (B) do not constitute blight under Section **17C-5-405**.

709 (ii) (A) If the taxing entity committee questions or disputes the existence of some or all

710 of the blight conditions that the agency found to exist in the [~~proposed community~~
711 ~~reinvestment project~~] survey area, the taxing entity committee may hire a consultant, mutually
712 agreed upon by the taxing entity committee and the agency, with the necessary expertise to
713 assist the taxing entity committee in making a determination as to the existence of the
714 questioned or disputed blight conditions.

715 (B) The agency shall pay the fees and expenses of each consultant hired under
716 Subsection (3)(b)(ii)(A).

717 (C) The findings of a consultant hired under Subsection (3)(b)(ii)(A) are binding on the
718 taxing entity committee and the agency.

719 Section 11. Section **17C-5-403** is amended to read:

720 **17C-5-403. Blight study -- Requirements -- Deadline.**

721 (1) A blight study shall:

722 (a) undertake a parcel by parcel survey of the survey area;

723 (b) provide data so the board and taxing entity committee may determine:

724 (i) whether the conditions described in Subsection **17C-5-405**:

725 (A) exist in part or all of the survey area; and

726 (B) meet the qualifications for a finding of blight in all or part of the survey area; and

727 (ii) whether the survey area contains all or part of a superfund site;

728 (c) include a written report that states:

729 (i) the conclusions reached;

730 (ii) any area within the survey area that meets the statutory criteria of blight under

731 Section **17C-5-405**; and

732 (iii) any other information requested by the agency to determine whether blight exists
733 within the survey area; and

734 (d) be completed within one year after the day on which the survey area resolution is
735 adopted.

736 (2) (a) If a blight study is not completed within the time described in Subsection (1)(d),
737 the agency may not approve a community reinvestment project area plan or an amendment to a
738 community reinvestment project area plan under Subsection **17C-5-112(4)** based on a blight
739 study unless the agency first adopts a new resolution under Subsection **17C-5-103(1)**.

740 (b) A new resolution described in Subsection (2)(a) shall in all respects be considered

741 to be a resolution under Subsection 17C-5-103(1) adopted for the first time, except that any
742 actions taken toward completing a blight study under the resolution that the new resolution
743 replaces shall be considered to have been taken under the new resolution.

744 (3) (a) For the purpose of making a blight determination under Subsection
745 17C-5-402(2)(c)(ii), a blight study is valid for one year from the day on which the blight study
746 is completed.

747 (b) (i) Except as provided in Subsection (3)(b)(ii), an agency that makes a blight
748 determination under a valid blight study and subsequently adopts a community reinvestment
749 project area plan in accordance with Section 17C-5-104 may amend the community
750 reinvestment project area plan without conducting a new blight study.

751 (ii) An agency shall conduct a supplemental blight study for the area proposed to be
752 added to the community reinvestment project area if the agency proposes an amendment to a
753 community reinvestment project area plan that:

754 (A) increases the community reinvestment project area's geographic boundary and the
755 area proposed to be added was not included in the original blight study; and

756 (B) provides for the use of eminent domain within the area proposed to be added to the
757 community reinvestment project area.

Legislative Review Note
Office of Legislative Research and General Counsel