

## Part 2

### Agency Creation, Powers, and Board

#### **17C-1-201.1 Title.**

This part is known as "Agency Creation, Powers, and Board."

Enacted by Chapter 350, 2016 General Session

#### **17C-1-201.5 Creation of agency -- Name change.**

- (1) A community legislative body may, by ordinance, create a community reinvestment agency.
- (2)
  - (a) The community legislative body shall:
    - (i) after adopting an ordinance under Subsection (1), file with the lieutenant governor a copy of a notice, subject to Subsection (2)(b), of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and
    - (ii) upon the lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5, submit to the recorder of the county in which the agency is located:
      - (A) the original notice of an impending boundary action;
      - (B) the original certificate of creation; and
      - (C) a certified copy of the ordinance approving the creation of the community reinvestment agency.
  - (b) The notice required under Subsection (2)(a)(i) shall state that the agency's boundaries are, and shall always be, coterminous with the boundaries of the community that created the agency.
  - (c) Upon the lieutenant governor's issuance of the certificate of creation under Section 67-1a-6.5, the agency is created and incorporated.
  - (d) Until the documents listed in Subsection (2)(a)(ii) are recorded in the office of the recorder of the county in which the agency is located, an agency may not receive or spend agency funds.
- (3)
  - (a) An agency may change the agency's name by:
    - (i) adopting a resolution approving a name change; and
    - (ii) filing with the lieutenant governor a copy of a notice of an impending name change, as defined in Section 67-1a-6.7, that meets the requirements of Subsection 67-1a-6.7(3).
  - (b)
    - (i) Upon the lieutenant governor's issuance of a certificate of name change under Section 67-1a-6.7, the agency shall file with the recorder of the county in which the agency is located:
      - (A) the original notice of an impending name change;
      - (B) the original certificate of name change; and
      - (C) a certified copy of the resolution approving a name change.
    - (ii) Until the documents listed in Subsection (3)(b)(i) are recorded in the office of the county recorder, the agency may not operate under the new name.

Renumbered and Amended by Chapter 350, 2016 General Session

#### **17C-1-202 Agency powers.**

- (1) An agency may:

- (a) sue and be sued;
  - (b) enter into contracts generally;
  - (c) buy, obtain an option upon, or otherwise acquire any interest in real or personal property;
  - (d) sell, convey, grant, gift, or otherwise dispose of any interest in real or personal property;
  - (e) enter into a lease agreement on real or personal property, either as lessee or lessor;
  - (f) provide for project area development as provided in this title;
  - (g) receive and use agency funds as provided in this title;
  - (h) if disposing of or leasing land, retain controls or establish restrictions and covenants running with the land consistent with the project area plan;
  - (i) accept financial or other assistance from any public or private source for the agency's activities, powers, and duties, and expend any funds the agency receives for any purpose described in this title;
  - (j) borrow money or accept financial or other assistance from a public entity or any other source for any of the purposes of this title and comply with any conditions of any loan or assistance;
  - (k) issue bonds to finance the undertaking of any project area development or for any of the agency's other purposes, including:
    - (i) reimbursing an advance made by the agency or by a public entity to the agency;
    - (ii) refunding bonds to pay or retire bonds previously issued by the agency; and
    - (iii) refunding bonds to pay or retire bonds previously issued by the community that created the agency for expenses associated with project area development;
  - (l) pay an impact fee, exaction, or other fee imposed by a community in connection with land development; or
  - (m) transact other business and exercise all other powers described in this title.
- (2) The establishment of controls or restrictions and covenants under Subsection (1)(h) is a public purpose.

Amended by Chapter 350, 2016 General Session

**17C-1-203 Agency board -- Quorum.**

- (1) The governing body of an agency is a board consisting of the current members of the community legislative body.
- (2) A majority of board members constitutes a quorum for the transaction of agency business.
- (3) A board may not adopt a resolution, pass a motion, or take any other official board action without the concurrence of at least a majority of the board members present at a meeting at which a quorum is present.
- (4)
  - (a) The mayor or the mayor's designee of a municipality operating under a council-mayor form of government, as defined in Section 10-3b-102:
    - (i) serves as the executive director of an agency created by the municipality; and
    - (ii) exercises the agency's executive powers.
  - (b) The county executive or the county executive's designee of a county operating under a county executive-council form of government, as described in Section 17-52-504:
    - (i) serves as the executive director of an agency created by the county; and
    - (ii) exercises the agency's executive powers.

Amended by Chapter 350, 2016 General Session

**17C-1-204 Project area development by an adjoining agency -- Requirements.**

- (1)
  - (a) A community that has not created an agency may enter into an interlocal agreement with an agency located in the same or an abutting county that authorizes the agency to exercise all the powers granted to an agency under this title within the community.
  - (b) The agency and the community shall adopt an interlocal agreement described in Subsection (1)(a) by resolution.
- (2) If an agency and a community enter into an interlocal agreement under Subsection (1):
  - (a) the agency may act in all respects as if a project area within the community were within the agency's boundaries;
  - (b) the board has all the rights, powers, and privileges with respect to a project area within the community as if the project area were within the agency's boundaries;
  - (c) the agency may be paid project area funds to the same extent as if a project area within the community were within the agency's boundaries; and
  - (d) the community legislative body shall adopt, by ordinance, each project area plan within the community approved by the agency.
- (3) If an agency's project area abuts another agency's project area, the agencies may coordinate with each other in order to assist and cooperate in the planning, undertaking, construction, or operation of project area development located within each agency's project area.
- (4)
  - (a) As used in this Subsection (4):
    - (i) "County agency" means an agency that is created by a county.
    - (ii) "Industrial property" means private real property:
      - (A) over half of which is located within the boundary of a town, as defined in Section 10-1-104; and
      - (B) comprises some or all of an inactive industrial site.
    - (iii) "Perimeter portion" means the portion of an inactive industrial site that is:
      - (A) part of the inactive industrial site because the site lies within the perimeter described in Section 17C-1-102; and
      - (B) located within the boundary of a city, as defined in Section 10-1-104.
  - (b)
    - (i) Subject to Subsection (4)(b)(ii), a county agency may undertake project area development on industrial property if the record property owner of the industrial property submits a written request to the county agency to do so.
    - (ii) A county agency may not include a perimeter portion within a project area without the approval of the city in which the perimeter portion is located.
  - (c) If a county agency undertakes project area development on industrial property:
    - (i) the county agency may act in all respects as if the project area that includes the industrial property were within the county agency's boundary;
    - (ii) the board of the county agency has each right, power, and privilege with respect to the project area as if the project area were within the county agency's boundary; and
    - (iii) the county agency may be paid project area funds to the same extent as if the project area were within the county agency's boundary.
  - (d) A project area plan for a project on industrial property that is approved by the county agency shall be adopted by ordinance of the legislative body of the county in which the project area is located.

Amended by Chapter 350, 2016 General Session

**17C-1-205 Transfer of project area from one community to another.**

- (1) As used in this section:
  - (a) "New agency" means the agency created by the new community.
  - (b) "New community" means the community in which the relocated project area is located after the change in community boundaries takes place.
  - (c) "Original agency" means the agency created by the original community.
  - (d) "Original community" means the community that adopted the project area plan that created the project area that has been relocated.
  - (e) "Relocated" means that a project area under a project area plan adopted by the original community has ceased to be located within that community and has become part of a new community because of a change in community boundaries through:
    - (i) a county or municipal annexation;
    - (ii) the creation of a new county;
    - (iii) a municipal incorporation, consolidation, dissolution, or boundary adjustment; or
    - (iv) any other action resulting in a change in community boundaries.
- (2) A relocated project area shall, for purposes of this title, be considered to remain in the original community until the original agency and the new agency enter into an interlocal agreement, adopted by resolution of the original agency's and the new agency's board, that authorizes the original agency to transfer or assign to the new agency the original agency's real property, rights, indebtedness, obligations, tax increment, or other assets and liabilities resulting from the relocated project area.

Amended by Chapter 350, 2016 General Session

**17C-1-207 Public entities may assist with project area development.**

- (1) In order to assist and cooperate in the planning, undertaking, construction, or operation of project area development within an area in which the public entity is authorized to act, a public entity may:
  - (a)
    - (i) provide or cause to be furnished:
      - (A) parks, playgrounds, or other recreational facilities;
      - (B) community, educational, water, sewer, or drainage facilities; or
      - (C) any other works which the public entity is otherwise empowered to undertake;
    - (ii) provide, furnish, dedicate, close, vacate, pave, install, grade, regrade, plan, or replan streets, roads, roadways, alleys, sidewalks, or other places;
    - (iii) in any part of the project area:
      - (A)
        - (I) plan or replan any property within the project area;
        - (II) plat or replat any property within the project area;
        - (III) vacate a plat;
        - (IV) amend a plat; or
        - (V) zone or rezone any property within the project area; and
      - (B) make any legal exceptions from building regulations and ordinances;
    - (iv) purchase or legally invest in any of the bonds of an agency and exercise all of the rights of any holder of the bonds;
    - (v) enter into an agreement with another public entity concerning action to be taken pursuant to any of the powers granted in this title;

- (vi) do anything necessary to aid or cooperate in the planning or implementation of the project area development;
  - (vii) in connection with the project area plan, become obligated to the extent authorized and funds have been made available to make required improvements or construct required structures; and
  - (viii) lend, grant, or contribute funds to an agency for project area development or proposed project area development, including assigning revenue or taxes in support of an agency bond or obligation; and
- (b) 15 days after posting public notice:
- (i) purchase or otherwise acquire property or lease property from the agency; or
  - (ii) sell, grant, convey, or otherwise dispose of the public entity's property or lease the public entity's property to the agency.
- (2) Notwithstanding any law to the contrary, an agreement under Subsection (1)(a)(v) may extend over any period.
- (3) A grant or contribution of funds from a public entity to an agency, or from an agency under a project area plan or project area budget, is not subject to the requirements of Section 10-8-2.

Amended by Chapter 350, 2016 General Session

**17C-1-208 Agency funds.**

- (1) Agency funds shall be accounted for separately from the funds of the community that created the agency.
- (2) An agency may accumulate retained earnings or fund balances, as appropriate, in any fund.

Amended by Chapter 350, 2016 General Session

**17C-1-209 Agency records.**

An agency shall maintain the agency's minutes, resolutions, and other records separate from those of the community that created the agency.

Enacted by Chapter 350, 2016 General Session