

**Effective 5/10/2016**

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

- (1)
  - (a) An agency shall use the agency's housing allocation, if applicable, to:
    - (i) pay part or all of the cost of land or construction of income targeted housing within the boundary of the agency, if practicable in a mixed income development or area;
    - (ii) pay part or all of the cost of rehabilitation of income targeted housing within the boundary of the agency;
    - (iii) lend, grant, or contribute money to a person, public entity, housing authority, private entity or business, or nonprofit corporation for income targeted housing within the boundary of the agency;
    - (iv) plan or otherwise promote income targeted housing within the boundary of the agency;
    - (v) pay part or all of the cost of land or installation, construction, or rehabilitation of any building, facility, structure, or other housing improvement, including infrastructure improvements, related to housing located in a project area where blight has been found to exist;
    - (vi) replace housing units lost as a result of the project area development;
    - (vii) make payments on or establish a reserve fund for bonds:
      - (A) issued by the agency, the community, or the housing authority that provides income targeted housing within the community; and
      - (B) all or part of the proceeds of which are used within the community for the purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi);
    - (viii) if the community's fair share ratio at the time of the first adoption of the project area budget is at least 1.1 to 1.0, make payments on bonds:
      - (A) that were previously issued by the agency, the community, or the housing authority that provides income targeted housing within the community; and
      - (B) all or part of the proceeds of which were used within the community for the purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi); or
    - (ix) relocate mobile home park residents displaced by project area development.
  - (b) As an alternative to the requirements of Subsection (1)(a), an agency may pay all or any portion of the agency's housing allocation to:
    - (i) the community for use as described in Subsection (1)(a);
    - (ii) a housing authority that provides income targeted housing within the community for use in providing income targeted housing within the community;
    - (iii) a housing authority established by the county in which the agency is located for providing:
      - (A) income targeted housing within the county;
      - (B) permanent housing, permanent supportive housing, or a transitional facility, as defined in Section 35A-5-302, within the county; or
      - (C) homeless assistance within the county; or
    - (iv) the Olene Walker Housing Loan Fund, established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund, for use in providing income targeted housing within the community.
- (2) The agency shall create a housing fund and separately account for the agency's housing allocation, together with all interest earned by the housing allocation and all payments or repayments for loans, advances, or grants from the housing allocation.
- (3) An agency may:
  - (a) issue bonds to finance a housing-related project under this section, including the payment of principal and interest upon advances for surveys and plans or preliminary loans; and

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

(4)

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

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

(5)

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

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

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

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

Amended by Chapter 350, 2016 General Session