

Effective 5/10/2016

Chapter 5 Community Reinvestment

Part 1 Community Reinvestment Project Area Plan

17C-5-101 Title.

- (1) This chapter is known as "Community Reinvestment."
- (2) This part is known as "Community Reinvestment Project Area Plan."

Enacted by Chapter 350, 2016 General Session

17C-5-102 Applicability of chapter.

This chapter applies to a community reinvestment project area created on or after May 10, 2016.

Enacted by Chapter 350, 2016 General Session

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

- (1) A board shall initiate the process of adopting a community reinvestment project area plan by adopting a survey area resolution that:
 - (a) designates a geographic area located within the agency's boundaries as a survey area;
 - (b) contains a description or map of the boundaries of the survey area;
 - (c) contains a statement that the survey area requires study to determine whether project area development is feasible within one or more proposed community reinvestment project areas within the survey area; and
 - (d) authorizes the agency to:
 - (i) prepare a proposed community reinvestment project area plan for each proposed community reinvestment project area; and
 - (ii) conduct any examination, investigation, or negotiation regarding the proposed community reinvestment project area that the agency considers appropriate.
- (2) If an agency anticipates an activity described in Subsection 17C-5-402(1) within the survey area, the resolution described in Subsection (1) shall include:
 - (a) a statement that the survey area requires study to determine whether blight exists within the survey area; and
 - (b) authorization for the agency to conduct a blight study in accordance with Section 17C-5-403.

Enacted by Chapter 350, 2016 General Session

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

- (1) An agency may not propose a community reinvestment project area plan unless the community in which the proposed community reinvestment project area plan is located:
 - (a) has a planning commission; and
 - (b) has adopted a general plan under:
 - (i) if the community is a municipality, Title 10, Chapter 9a, Part 4, General Plan; or

- (ii) if the community is a county, Title 17, Chapter 27a, Part 4, General Plan.
- (2)
 - (a) Before an agency may adopt a proposed community reinvestment project area plan, the agency shall make a blight determination in accordance with Section 17C-5-402 if the agency anticipates an activity described in Subsection 17C-5-402(1) for which a blight determination is required.
 - (b) If applicable, an agency may not approve a community reinvestment project area plan more than one year after the adoption of a resolution making a finding of blight under Section 17C-5-402.
- (3) To adopt a community reinvestment project area plan, an agency shall:
 - (a) prepare a proposed community reinvestment project area plan in accordance with Section 17C-5-105;
 - (b) make the proposed community reinvestment project area plan available to the public at the agency's office during normal business hours for at least 30 days before the plan hearing described in Subsection (3)(e);
 - (c) before holding the plan hearing described in Subsection (3)(e), provide an opportunity for the State Board of Education and each taxing entity that levies or imposes a tax within the proposed community reinvestment project area to consult with the agency regarding the proposed community reinvestment project area plan;
 - (d) provide notice of the plan hearing in accordance with Chapter 1, Part 8, Hearing and Notice Requirements;
 - (e) hold a plan hearing on the proposed community reinvestment project area plan and, at the plan hearing:
 - (i) allow public comment on:
 - (A) the proposed community reinvestment project area plan; and
 - (B) whether the agency should revise, approve, or reject the proposed community reinvestment project area plan; and
 - (ii) receive all written and oral objections to the proposed community reinvestment project area plan; and
 - (f) following the plan hearing described in Subsection (3)(e), or at a subsequent agency meeting:
 - (i) consider:
 - (A) the oral and written objections to the proposed community reinvestment project area plan and evidence and testimony for and against adoption of the proposed community reinvestment project area plan; and
 - (B) whether to revise, approve, or reject the proposed community reinvestment project area plan;
 - (ii) adopt a resolution in accordance with Section 17C-5-108 that approves the proposed community reinvestment project area plan, with or without revisions, as the community reinvestment project area plan; and
 - (iii) submit the community reinvestment project area plan to the community legislative body for adoption.
- (4)
 - (a) Except as provided in Subsection (4)(b), an agency may not modify a proposed community reinvestment project area plan to add a parcel to the proposed community reinvestment project area unless the agency holds a plan hearing to consider the addition and gives notice of the plan hearing in accordance with Chapter 1, Part 8, Hearing and Notice Requirements.

- (b) The notice and hearing requirements described in Subsection (4)(a) do not apply to a proposed community reinvestment project area plan being modified to add a parcel to the proposed community reinvestment project area if:
 - (i) the parcel is contiguous to one or more parcels already included in the proposed community reinvestment project area under the proposed community reinvestment project area plan;
 - (ii) the record owner of the parcel consents to adding the parcel to the proposed community reinvestment project area; and
 - (iii) the parcel is located within the survey area.

Enacted by Chapter 350, 2016 General Session

17C-5-105 Community reinvestment project area plan requirements.

- (1) Each community reinvestment project area plan and proposed community reinvestment project area plan shall:
 - (a) subject to Section 17C-1-414, if applicable, include a boundary description and a map of the community reinvestment project area;
 - (b) contain a general statement of the existing land uses, layout of principal streets, population densities, and building intensities of the community reinvestment project area and how each will be affected by the project area development;
 - (c) state the standards that will guide the project area development;
 - (d) show how the project area development will further purposes of this title;
 - (e) be consistent with the general plan of the community in which the community reinvestment project area is located and show that the project area development will conform to the community's general plan;
 - (f) if applicable, describe how project area development will eliminate or reduce blight in the community reinvestment project area;
 - (g) describe any specific project area development that is the object of the community reinvestment project area plan;
 - (h) if applicable, explain how the agency plans to select a participant;
 - (i) state each reason the agency selected the community reinvestment project area;
 - (j) describe the physical, social, and economic conditions that exist in the community reinvestment project area;
 - (k) describe each type of financial assistance that the agency anticipates offering a participant;
 - (l) report the results of the public benefit analysis described in Subsection (2);
 - (m) if applicable, state that the agency shall comply with Section 9-8-404 as required under Section 17C-5-106;
 - (n) state whether the community reinvestment project area plan or proposed community reinvestment project area plan is subject to a taxing entity committee or an interlocal agreement; and
 - (o) include other information that the agency determines to be necessary or advisable.
- (2)
 - (a) An agency shall conduct an analysis in accordance with Subsection (2)(b) to determine whether the proposed community reinvestment project area plan will provide a public benefit.
 - (b) The analysis described in Subsection (2)(a) shall consider:
 - (i) the benefit of any financial assistance or other public subsidy proposed to be provided by the agency, including:
 - (A) an evaluation of the reasonableness of the costs of the proposed project area development;

- (B) efforts that have been, or will be made, to maximize private investment;
 - (C) the rationale for use of project area funds, including an analysis of whether the proposed project area development might reasonably be expected to occur in the foreseeable future solely through private investment; and
 - (D) an estimate of the total amount of project area funds that the agency intends to spend on project area development and the length of time over which the project area funds will be spent; and
- (ii) the anticipated public benefit derived from the proposed project area development, including:
- (A) the beneficial influences on the community's tax base;
 - (B) the associated business and economic activity the proposed project area development will likely stimulate; and
 - (C) whether adoption of the proposed community reinvestment project area plan is necessary and appropriate to undertake the proposed project area development.

Enacted by Chapter 350, 2016 General Session

17C-5-106 Existing and historic buildings and uses in a community reinvestment project area.

An agency shall comply with Section 9-8-404 as though the agency is a state agency if:

- (1) any of the existing buildings or uses in a community reinvestment project area are included in, or eligible for inclusion in, the National Register of Historic Places or the State Register; and
- (2) the agency spends agency funds on the demolition or rehabilitation of existing buildings described in Subsection (1).

Enacted by Chapter 350, 2016 General Session

17C-5-107 Objections to a community reinvestment project area plan.

- (1) A person may object to a proposed community reinvestment project area plan:
 - (a) in writing at any time before or during a plan hearing; or
 - (b) orally during a plan hearing.
- (2) An agency may not approve a proposed community reinvestment project area plan if, after receiving public comment at a plan hearing in accordance with Subsection 17C-5-104(3)(e) (i), the record property owners of at least 51% of the private land area within the most recently proposed community reinvestment project area object to the proposed community reinvestment project area plan.

Enacted by Chapter 350, 2016 General Session

17C-5-108 Board resolution approving a community reinvestment project area plan -- Requirements.

A board resolution approving a proposed community reinvestment area plan as the community reinvestment project area plan under Section 17C-5-104 shall contain:

- (1) a boundary description of the community reinvestment project area that is the subject of the community reinvestment project area plan;
- (2) the agency's purposes and intent with respect to the community reinvestment project area;
- (3) the proposed community reinvestment project area plan incorporated by reference;

- (4) the board findings and determinations that the proposed community reinvestment project area plan:
 - (a) serves a public purpose;
 - (b) produces a public benefit as demonstrated by the analysis described in Subsection 17C-5-105(2);
 - (c) is economically sound and feasible;
 - (d) conforms to the community's general plan; and
 - (e) promotes the public peace, health, safety, and welfare of the community in which the proposed community reinvestment project area is located; and
- (5) if the board made a finding of blight under Section 17C-5-402, a statement that the board made a finding of blight within the proposed community reinvestment project area and the date on which the board made the finding of blight.

Enacted by Chapter 350, 2016 General Session

17C-5-109 Community reinvestment project area plan to be adopted by community legislative body.

- (1) A proposed community reinvestment project area plan approved by board resolution under Section 17C-5-104 may not take effect until the community legislative body:
 - (a) by ordinance, adopts the proposed community reinvestment project area plan; and
 - (b) provides notice in accordance with Section 17C-5-110.
- (2) An ordinance described in Subsection (1)(a) shall designate the community reinvestment project area plan as the official plan of the community reinvestment project area.

Enacted by Chapter 350, 2016 General Session

17C-5-110 Notice of community reinvestment project area plan adoption -- Effective date of plan -- Contesting the formation of the plan.

- (1)
 - (a) Upon a community legislative body's adoption of a community reinvestment project area plan in accordance with Section 17C-5-109, or an amendment to a community reinvestment project area plan in accordance with Section 17C-5-112, the community legislative body shall provide notice of the adoption or amendment in accordance with Subsection (1)(b) by:
 - (i)
 - (A) causing a notice to be published in a newspaper of general circulation within the community; or
 - (B) if there is no newspaper of general circulation within the community, causing a notice to be posted in at least three public places within the community; and
 - (ii) posting a notice on the Utah Public Notice Website described in Section 63F-1-701.
 - (b) A notice described in Subsection (1)(a) shall include:
 - (i) a copy of the community legislative body's ordinance, or a summary of the ordinance, that adopts the community reinvestment project area plan; and
 - (ii) a statement that the community reinvestment project area plan is available for public inspection and the hours for inspection.
- (2) A community reinvestment project area plan is effective on the day on which notice of adoption is published or posted in accordance with Subsection (1)(a).
- (3) A community reinvestment project area is considered created the day on which the community reinvestment project area plan becomes effective as described in Subsection (2).

- (4)
 - (a) Within 30 days after the day on which a community reinvestment project area plan is effective, a person may contest the community reinvestment project area plan or the procedure used to adopt the community reinvestment project area plan if the community reinvestment project area plan or the procedure fails to comply with a provision of this title.
 - (b) After the 30-day period described in Subsection (4)(a) expires, a person may not contest the community reinvestment project area plan or the procedure used to adopt the community reinvestment project area plan.
- (5) Upon adoption of a community reinvestment project area plan by the community legislative body, the agency may implement the community reinvestment project area plan.
- (6) The agency shall make the community reinvestment project area plan available to the public at the agency's office during normal business hours.

Enacted by Chapter 350, 2016 General Session

17C-5-111 Agency required to transmit and record documentation after adoption of community reinvestment project area plan.

Within 30 days after the day on which a community legislative body adopts a community reinvestment project area plan under Section 17C-5-109, the agency shall:

- (1) record with the recorder of the county in which the community reinvestment project area is located a document containing:
 - (a) the name of the community reinvestment project area;
 - (b) a boundary description of the community reinvestment project area; and
 - (c)
 - (i) a statement that the community legislative body adopted the community reinvestment project area plan; and
 - (ii) the day on which the community legislative body adopted the community reinvestment project area plan;
- (2) transmit a copy of a description of the land within the community reinvestment project area and an accurate map or plat indicating the boundaries of the community reinvestment project area to the Automated Geographic Reference Center created in Section 63F-1-506; and
- (3) for a community reinvestment project area plan that provides for the agency to receive tax increment, transmit a copy of a description of the land within the community reinvestment project area, a copy of the community legislative body ordinance adopting the community reinvestment project area plan, and an accurate map or plat indicating the boundaries of the community reinvestment project area to:
 - (a) the auditor, recorder, county or district attorney, surveyor, and assessor of each county in which any part of the community reinvestment project area is located;
 - (b) the officer or officers performing the function of auditor or assessor for each taxing entity that does not use the county assessment roll or collect the taxing entity's taxes through the county;
 - (c) the legislative body or governing board of each taxing entity;
 - (d) the State Tax Commission; and
 - (e) the State Board of Education.

Enacted by Chapter 350, 2016 General Session

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

- (1) An agency may amend a community reinvestment project area plan in accordance with this section.
- (2)
 - (a) If an amendment proposes to enlarge a community reinvestment project area's geographic area, the agency shall:
 - (i) comply with this part as though the agency were creating a community reinvestment project area;
 - (ii) if the agency anticipates receiving project area funds from the area proposed to be added to the community reinvestment project area, before the agency may collect project area funds:
 - (A) for a community reinvestment project area plan that is subject to a taxing entity committee, obtain approval to receive tax increment from the taxing entity committee; or
 - (B) for a community reinvestment project area plan that is subject to an interlocal agreement, obtain the approval of the taxing entity that is a party to the interlocal agreement; and
 - (iii) if the agency anticipates activity within the area proposed to be added to the community reinvestment project area that requires a finding of blight under Subsection 17C-5-402(1), follow the procedures described in Section 17C-5-402.
 - (b) The base year for the area proposed to be added to the community reinvestment project area shall be determined using the date of:
 - (i) the taxing entity committee's consent as described in Subsection (2)(a)(ii)(A); or
 - (ii) the taxing entity's consent as described in Subsection (2)(a)(ii)(B).
- (3) If an amendment does not propose to enlarge a community reinvestment project area's geographic area, the board may adopt a resolution approving the amendment after the agency:
 - (a) if the amendment does not propose to allow the agency to receive a greater amount of project area funds or to extend a project area funds collection period:
 - (i) gives notice in accordance with Section 17C-1-806; and
 - (ii) holds a public hearing on the proposed amendment that meets the requirements described in Subsection 17C-5-104(2); or
 - (b) if the amendment proposes to also allow the agency to receive a greater amount of project area funds or to extend a project area funds collection period:
 - (i) complies with Subsection (3)(a)(i) and (ii); and
 - (ii)
 - (A) for a community reinvestment project area plan that is subject to a taxing entity committee, obtains approval from the taxing entity committee; or
 - (B) for a community reinvestment project area plan that is subject to an interlocal agreement, obtains approval to receive project area funds from the taxing entity that is a party to the interlocal agreement.
- (4) An agency may amend a community reinvestment project area plan without obtaining the consent of a taxing entity or a taxing entity committee and without providing notice or holding a public hearing if the amendment:
 - (a) makes a minor adjustment in the community reinvestment project area boundary that is requested by a county assessor or county auditor to avoid inconsistent property boundary lines; or
 - (b) removes a parcel from a community reinvestment project area because the agency determines that the parcel is:
 - (i) tax exempt;
 - (ii) no longer blighted; or
 - (iii) no longer necessary or desirable to the project area.
- (5)

- (a) An amendment approved by board resolution under this section may not take effect until the community legislative body adopts an ordinance approving the amendment.
 - (b) Upon the community legislative body adopting an ordinance approving an amendment under Subsection (5)(a), the agency shall comply with the requirements described in Sections 17C-5-110 and 17C-5-111 as if the amendment were a community reinvestment project area plan.
- (6)
- (a) Within 30 days after the day on which an amendment to a project area plan becomes effective, a person may contest the amendment to the project area plan or the procedure used to adopt the amendment to the project area plan if the amendment or procedure fails to comply with a provision of this title.
 - (b) After the 30-day period described in Subsection (6)(a) expires, a person may not contest the amendment to the project area plan or procedure used to adopt the amendment to the project area plan for any cause.

Enacted by Chapter 350, 2016 General Session

17C-5-113 Expedited community reinvestment project area plan.

- (1) As used in this section:
- (a) "Qualified business entity" means a business entity that:
 - (i) has a primary market for the qualified business entity's goods or services outside of the state; and
 - (ii) is not primarily engaged in retail sales.
 - (b) "Tax increment incentive" means the portion of an agency's tax increment that is paid to a qualified business entity for the purpose of implementing a community reinvestment project area plan.
- (2) An agency and a qualified business entity may, in accordance with Subsection (3), enter into an agreement that allows the qualified business entity to receive a tax increment incentive.
- (3) An agreement described in Subsection (2) shall set annual postperformance targets for:
- (a) capital investment within the community reinvestment project area;
 - (b) the number of new jobs created within the community reinvestment project area;
 - (c) the average wage of the jobs described in Subsection (3)(b) that is at least 110% of the prevailing wage of the county within which the community reinvestment project area is located; and
 - (d) the amount of local vendor opportunity generated by the qualified business entity.
- (4) A qualified business entity may only receive a tax increment incentive:
- (a) if the qualified business entity complies with the agreement described in Subsection (3);
 - (b) on a postperformance basis; and
 - (c) on an annual basis after the agency receives tax increment from a taxing entity.
- (5) An agency may create or amend a community reinvestment project area plan for the purpose of providing a tax increment incentive without complying with the requirements described in Chapter 1, Part 8, Hearing and Notice Requirements, if:
- (a) the agency:
 - (i) holds a public hearing to consider the need to create or amend a community reinvestment project area plan on an expedited basis;
 - (ii) posts notice at least 14 days before the day on which the public hearing described in Subsection (5)(a)(i) is held on:
 - (A) the community's website; and

- (B) the Utah Public Notice Website as described in Section 63F-1-701; and
- (iii) at the hearing described in Subsection (5)(a)(i), adopts a resolution to create or amend the community reinvestment project area plan on an expedited basis;
- (b) all record property owners within the existing or proposed community reinvestment project area plan give written consent; and
- (c) each taxing entity affected by the tax increment incentive consents and enters into an interlocal agreement with the agency authorizing the agency to pay a tax increment incentive to the qualified business entity.

Enacted by Chapter 350, 2016 General Session

Part 2

Community Reinvestment Project Area Funds

17C-5-201 Title.

This part is known as "Community Reinvestment Project Area Funds."

Enacted by Chapter 350, 2016 General Session

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

- (1)
 - (a) Except as provided in Subsection (1)(b), for the purpose of receiving project area funds for use within a community reinvestment project area, an agency shall negotiate and enter into an interlocal agreement with a taxing entity in accordance with Section 17C-5-204 to receive all or a portion of the taxing entity's tax increment or sales and use tax revenue in accordance with the interlocal agreement.
 - (b) If an agency plans to use eminent domain to acquire property within a community reinvestment project area, the agency shall create a taxing entity committee as described in Section 17C-1-402 and receive tax increment in accordance with Section 17C-5-203.
- (2) An agency shall comply with Chapter 5, Part 3, Community Reinvestment Project Area Budget, regardless of whether an agency enters into an interlocal agreement under Subsection (1)(a) or creates a taxing entity committee under Subsection (1)(b).

Enacted by Chapter 350, 2016 General Session

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

- (1) This section applies to a community reinvestment project area that is subject to a taxing entity committee under Subsection 17C-5-202(1)(b).
- (2) Subject to the taxing entity committee's approval of a community reinvestment project area budget under Section 17C-5-304, and for the purpose of implementing a community reinvestment project area plan, an agency may receive up to 100% of a taxing entity's tax increment, or any specified dollar amount of tax increment, for any period of time.
- (3) Notwithstanding Subsection (2), an agency that adopts a community reinvestment project area plan that is subject to a taxing entity committee may negotiate and enter into an interlocal

agreement with a taxing entity and receive all or a portion of the taxing entity's sales and use tax revenue for any period of time.

Enacted by Chapter 350, 2016 General Session

17C-5-204 Community reinvestment project area subject to interlocal agreement -- Consent of a taxing entity to an agency receiving project area funds.

- (1) As used in this section, "successor taxing entity" means a taxing entity that:
 - (a) is created after the day on which an interlocal agreement is executed to allow an agency to receive a taxing entity's project area funds; and
 - (b) levies or imposes a tax within the community reinvestment project area.
- (2) This section applies to a community reinvestment project area that is subject to an interlocal agreement under Subsection 17C-5-202(1)(a).
- (3) For the purpose of implementing a community reinvestment project area plan, an agency may negotiate with a taxing entity for all or a portion of the taxing entity's project area funds.
- (4) A taxing entity may agree to allow an agency to receive the taxing entity's project area funds by executing an interlocal agreement with the agency in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.
- (5) Before an agency may use project area funds received under an interlocal agreement described in Subsection (4), the agency shall:
 - (a) obtain a written certification, signed by an attorney licensed to practice law in the state, stating that the agency and the taxing entity have each followed all legal requirements relating to the adoption of the interlocal agreement; and
 - (b) provide a signed copy of the certification described in Subsection (5)(a) to the taxing entity.
- (6) An interlocal agreement described in Subsection (4) shall:
 - (a) if the interlocal agreement provides for the agency to receive tax increment, state:
 - (i) the method of calculating the amount of the taxing entity's tax increment from the community reinvestment project area that the agency receives, including the base year and base taxable value;
 - (ii) the project area funds collection period; and
 - (iii) the percentage of the taxing entity's tax increment or the maximum cumulative dollar amount of the taxing entity's tax increment that the agency receives;
 - (b) if the interlocal agreement provides for the agency to receive the taxing entity's sales and use tax revenue, state:
 - (i) the method of calculating the amount of the taxing entity's sales and use tax revenue that the agency receives;
 - (ii) the project area funds collection period; and
 - (iii) the percentage of sales and use tax revenue or the maximum cumulative dollar amount of sales and use tax revenue that the agency receives; and
 - (c) include a copy of the community reinvestment project area budget.
- (7) A school district may consent to allow an agency to receive tax increment from the school district's basic levy only to the extent that the school district also consents to allow the agency to receive tax increment from the school district's local levy.
- (8) The parties may amend an interlocal agreement under this section by mutual consent.
- (9) A taxing entity's consent to allow an agency to receive project area funds under this section is not subject to the requirements of Section 10-8-2.
- (10) An interlocal agreement executed by a taxing entity under this section may be enforced by or against any successor taxing entity.

Enacted by Chapter 350, 2016 General Session

17C-5-205 Interlocal agreement to provide project area funds for the community reinvestment project area subject to interlocal agreement -- Notice -- Effective date of interlocal agreement -- Time to contest interlocal agreement -- Availability of interlocal agreement.

- (1) The agency shall approve and adopt an interlocal agreement described in Section 17C-5-204 at an open and public meeting.
- (2)
 - (a) Upon the execution of an interlocal agreement described in Section 17C-5-204, the agency shall provide notice of the execution by:
 - (i)
 - (A) publishing or causing to be published a notice in a newspaper of general circulation within the agency's boundaries; or
 - (B) if there is no newspaper of general circulation within the agency's boundaries, causing the notice to be posted in at least three public places within the agency's boundaries; and
 - (ii) publishing or causing the notice to be published on the Utah Public Notice Website created in Section 63F-1-701.
 - (b) A notice described in Subsection (2)(a) shall include:
 - (i) a summary of the interlocal agreement; and
 - (ii) a statement that the interlocal agreement is available for public inspection and the hours for inspection.
- (3) An interlocal agreement described in Section 17C-5-204 is effective the day on which the notice described in Subsection (2) is published or posted in accordance with Subsection (2)(a).
- (4)
 - (a) Within 30 days after the day on which the interlocal agreement is effective, a person may contest the interlocal agreement or the procedure used to adopt the interlocal agreement if the interlocal agreement or procedure fails to comply with a provision of this title.
 - (b) After the 30-day period described in Subsection (4)(a) expires, a person may not contest:
 - (i) the interlocal agreement;
 - (ii) a distribution of tax increment to the agency under the interlocal agreement; or
 - (iii) the agency's use of project area funds under the interlocal agreement.
- (5) A taxing entity that enters into an interlocal agreement under Section 17C-5-204 shall make a copy of the interlocal agreement available to the public at the taxing entity's office for inspection and copying during normal business hours.

Enacted by Chapter 350, 2016 General Session

17C-5-206 Requirement to file a copy of the interlocal agreement -- County payment of tax increment.

- (1) An agency that receives project area funds under an interlocal agreement shall, within 30 days after the day on which the interlocal agreement is effective, file a copy of the interlocal agreement with:
 - (a) the State Tax Commission, the State Board of Education, and the state auditor; and
 - (b) the auditor of the county in which the community reinvestment project area is located, if the interlocal agreement authorizes the agency to receive tax increment.

- (2) A county that collects property tax on property within a community reinvestment project area that is subject to an interlocal agreement shall, in accordance with Section 59-2-1365, pay and distribute to the agency the tax increment that the agency is authorized to receive under the interlocal agreement.

Enacted by Chapter 350, 2016 General Session

Part 3

Community Reinvestment Project Area Budget

17C-5-301 Title.

This part is known as "Community Reinvestment Project Area Budget."

Enacted by Chapter 350, 2016 General Session

17C-5-302 Procedure for adopting a community reinvestment project area budget -- Contesting the budget -- Time limit.

- (1) An agency shall adopt a community reinvestment project area budget in accordance with this part.
- (2) To adopt a community reinvestment project area budget, an agency shall:
 - (a) prepare a proposed community reinvestment project area budget in accordance with Section 17C-5-303;
 - (b) obtain the consent of the taxing entity committee or taxing entity in accordance with Section 17C-5-304;
 - (c) make a copy of the proposed community reinvestment project area budget available to the public at the agency's office during normal business hours for at least 30 days before the budget hearing described in Subsection (2)(e);
 - (d) provide notice of the budget hearing in accordance with Chapter 1, Part 8, Hearing and Notice Requirements;
 - (e) hold a budget hearing on the proposed community reinvestment project area budget and, at the budget hearing, allow public comment on:
 - (i) the proposed community reinvestment project area budget; and
 - (ii) whether the agency should revise, adopt, or reject the proposed community reinvestment project area budget; and
 - (f) after the budget hearing described in Subsection (2)(e), or at a subsequent meeting:
 - (i) consider the comments and information from the budget hearing relating to the proposed community reinvestment project area budget; and
 - (ii) reject or adopt by resolution the proposed community reinvestment project area budget, with any revisions, as the community reinvestment project area budget.
- (3)
 - (a) Within 30 days after the day on which the agency adopts a community reinvestment project area budget, a person may contest the community reinvestment project area budget or the procedure used to adopt the community reinvestment project area budget if the community reinvestment project area budget or procedure fails to comply with a provision of this title.
 - (b) After the 30-day period described in Subsection (3)(a) expires, a person may not contest:

- (i) the community reinvestment project area budget or the procedure used by the taxing entity, the taxing entity committee, or the agency to adopt the community reinvestment project area budget;
- (ii) a payment to the agency under the community reinvestment project area budget; or
- (iii) the agency's use of project area funds under the community reinvestment project area budget.

Enacted by Chapter 350, 2016 General Session

17C-5-303 Community reinvestment project area budget -- Requirements.

A community reinvestment project area budget shall include:

- (1) if the agency receives tax increment:
 - (a) the base taxable value;
 - (b) the projected amount of tax increment to be generated within the community reinvestment project area;
 - (c) each project area funds collection period;
 - (d) if applicable, the projected amount of tax increment to be paid to other taxing entities in accordance with Section 17C-1-410;
 - (e) if the area from which tax increment is collected is less than the entire community reinvestment project area:
 - (i) a boundary description of the portion or portions of the community reinvestment project area from which the agency receives tax increment; and
 - (ii) for each portion described in Subsection (1)(e)(i), the period of time during which tax increment is collected;
 - (f) the percentage of tax increment the agency is authorized to receive from the community reinvestment project area; and
 - (g) the maximum cumulative dollar amount of tax increment the agency is authorized to receive from the community reinvestment project area;
- (2) if the agency receives sales and use tax revenue:
 - (a) the percentage and total amount of sales and use tax revenue to be paid to the agency; and
 - (b) each project area funds collection period;
- (3) the amount of project area funds the agency will use to implement the community reinvestment project area plan, including the estimated amount of project area funds that will be used for land acquisition, public improvements, infrastructure improvements, or any loans, grants, or other incentives to private or public entities;
- (4) the agency's combined incremental value;
- (5) the amount of project area funds that will be used to cover the cost of administering the community reinvestment project area plan; and
- (6) for property that the agency owns and expects to sell, the expected total cost of the property to the agency and the expected sale price.

Enacted by Chapter 350, 2016 General Session

17C-5-304 Consent of each taxing entity or taxing entity committee required for community reinvestment project area budget.

Before an agency may collect any project area funds from a community reinvestment project area, the agency shall obtain consent for each community reinvestment project area budget from:

- (1) for a community reinvestment project area that is subject to an interlocal agreement, each taxing entity that is a party to an interlocal agreement; or
- (2) for a community reinvestment project area that is subject to a taxing entity committee, the taxing entity committee.

Enacted by Chapter 350, 2016 General Session

17C-5-305 Filing a copy of the community reinvestment project area budget.

Within 30 days after the day on which an agency adopts a community reinvestment project area budget, the agency shall file a copy of the community reinvestment project area budget with:

- (1) the State Tax Commission;
- (2) the State Board of Education;
- (3) the state auditor;
- (4) the auditor of the county in which the community reinvestment project area is located; and
- (5) each taxing entity affected by the agency's collection of project area funds under the community reinvestment project area budget.

Enacted by Chapter 350, 2016 General Session

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

- (1) Before a project area funds collection period ends, an agency may amend a community reinvestment project area budget in accordance with this section.
- (2) To amend a community reinvestment project area budget, an agency shall:
 - (a) provide notice and hold a public hearing on the proposed amendment in accordance with Chapter 1, Part 8, Hearing and Notice Requirements;
 - (b)
 - (i) if the community reinvestment project area budget required approval from a taxing entity committee, obtain the taxing entity committee's approval; or
 - (ii) if the community reinvestment project area budget required an interlocal agreement with a taxing entity, obtain approval from the taxing entity that is a party to the interlocal agreement; and
 - (c) at the public hearing described in Subsection (2)(a) or at a subsequent board meeting, by resolution, adopt the community reinvestment project area budget amendment.
- (3) If an agency proposes a community reinvestment project area budget amendment under which the agency is paid a greater proportion of tax increment from the community reinvestment project area than provided under the community reinvestment project area budget, the notice described in Subsection (2)(a) shall state:
 - (a) the percentage of tax increment paid under the community reinvestment project area budget; and
 - (b) the proposed percentage of tax increment paid under the community reinvestment project area budget amendment.
- (4)
 - (a) If an agency proposes a community reinvestment project area budget amendment that extends a project area funds collection period, before a taxing entity committee or taxing entity may provide the taxing entity committee's or taxing entity's approval described in Subsection (2)(b), the agency shall provide to the taxing entity committee or taxing entity:
 - (i) the reasons why the extension is required;

- (ii) a description of the project area development for which project area funds received by the agency under the extension will be used;
- (iii) a statement of whether the project area funds received by the agency under the extension will be used within an active project area or a proposed project area; and
- (iv) a revised community reinvestment project area budget that includes:
 - (A) the annual and total amounts of project area funds that the agency receives under the extension; and
 - (B) the number of years that are added to each project area funds collection period under the extension.
- (b) With respect to an amendment described in Subsection (4)(a), a taxing entity committee or taxing entity may consent to:
 - (i) allow an agency to use project area funds received under an extension within a different project area from which the project area funds are generated; or
 - (ii) alter the base taxable value in connection with a community reinvestment project area budget extension.
- (5) If an agency proposes a community reinvestment project area budget amendment that reduces the base taxable value of the project area due to the removal of a parcel under Subsection 17C-5-112(4)(b), an agency may amend a project area budget without:
 - (a) complying with Subsection (2)(a); and
 - (b) obtaining taxing entity committee or taxing entity approval described in Subsection (2)(b).
- (6)
 - (a) A person may contest an agency's adoption of a community reinvestment project area budget amendment within 30 days after the day on which the agency adopts the community reinvestment project area budget amendment.
 - (b) After the 30-day period described in Subsection (6)(a), a person may not contest:
 - (i) the agency's adoption of the community reinvestment project area budget amendment;
 - (ii) a payment to the agency under the community reinvestment project area budget amendment; or
 - (iii) the agency's use of project area funds received under the community reinvestment project area budget amendment.

Enacted by Chapter 350, 2016 General Session

17C-5-307 Allocating project area funds for housing.

- (1)
 - (a) For a community reinvestment project area that is subject to a taxing entity committee, an agency shall allocate at least 20% of the agency's annual tax increment for housing in accordance with Section 17C-1-412 if the community reinvestment project area budget provides for more than \$100,000 of annual tax increment to be distributed to the agency.
 - (b) The taxing entity committee may waive a portion of the allocation described in Subsection (1)(a) if:
 - (i) the taxing entity committee determines that 20% of the agency's annual tax increment is more than is needed to address the community's need for income targeted housing or homeless assistance; and
 - (ii) after the waiver, the agency's housing allocation is equal to at least 10% of the agency's annual tax increment.
- (2) For a community reinvestment project area that is subject to an interlocal agreement, an agency shall allocate at least 10% of the project area funds for housing in accordance with

Section 17C-1-412 if the community reinvestment project area budget provides for more than \$100,000 of annual project area funds to be distributed to the agency.

Enacted by Chapter 350, 2016 General Session

Part 4

Blight Determination in a Community Reinvestment Project Area

17C-5-401 Title.

This part is known as "Blight Determination in a Community Reinvestment Project Area."

Enacted by Chapter 350, 2016 General Session

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

- (1) An agency shall comply with the provisions of this section before the agency may use eminent domain to acquire property under Chapter 1, Part 9, Eminent Domain.
- (2) An agency shall, after adopting a survey area resolution as described in Section 17C-5-103:
 - (a) cause a blight study to be conducted within the survey area in accordance with Section 17C-5-403;
 - (b) provide notice and hold a blight hearing in accordance with Chapter 1, Part 8, Hearing and Notice Requirements; and
 - (c) after the blight hearing, at the same or at a subsequent meeting:
 - (i) consider:
 - (A) the issue of blight and the evidence and information relating to the existence or nonexistence of blight; and
 - (B) whether the agency should pursue adoption of one or more community reinvestment project area plans; and
 - (ii) by resolution, make a finding regarding whether blight exists in the proposed community reinvestment project area.
- (3)
 - (a) If an agency makes a finding of blight under Subsection (2), the agency may not adopt the community reinvestment project area plan until the taxing entity committee approves the finding of blight.
 - (b)
 - (i) A taxing entity committee shall approve an agency's finding of blight unless the taxing entity committee demonstrates that the conditions the agency found to exist in the community reinvestment project area that support the agency's finding of blight:
 - (A) do not exist; or
 - (B) do not constitute blight under Section 17C-5-405.
 - (ii)
 - (A) If the taxing entity committee questions or disputes the existence of some or all of the blight conditions that the agency found to exist in the proposed community reinvestment project area, the taxing entity committee may hire a consultant, mutually agreed upon by the taxing entity committee and the agency, with the necessary expertise to assist the

taxing entity committee in making a determination as to the existence of the questioned or disputed blight conditions.

- (B) The agency shall pay the fees and expenses of each consultant hired under Subsection (3)(b)(ii)(A).
- (C) The findings of a consultant hired under Subsection (3)(b)(ii)(A) are binding on the taxing entity committee and the agency.

Enacted by Chapter 350, 2016 General Session

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

- (1) A blight study shall:
 - (a) undertake a parcel by parcel survey of the survey area;
 - (b) provide data so the board and taxing entity committee may determine:
 - (i) whether the conditions described in Subsection 17C-5-405:
 - (A) exist in part or all of the survey area; and
 - (B) meet the qualifications for a finding of blight in all or part of the survey area; and
 - (ii) whether the survey area contains all or part of a superfund site;
 - (c) include a written report that states:
 - (i) the conclusions reached;
 - (ii) any area within the survey area that meets the statutory criteria of blight under Section 17C-5-405; and
 - (iii) any other information requested by the agency to determine whether blight exists within the survey area; and
 - (d) be completed within one year after the day on which the survey area resolution is adopted.
- (2)
 - (a) If a blight study is not completed within the time described in Subsection (1)(d), the agency may not approve a community reinvestment project area plan based on a blight study unless the agency first adopts a new resolution under Subsection 17C-5-103(1).
 - (b) A new resolution described in Subsection (2)(a) shall in all respects be considered to be a resolution under Subsection 17C-5-103(1) adopted for the first time, except that any actions taken toward completing a blight study under the resolution that the new resolution replaces shall be considered to have been taken under the new resolution.
- (3)
 - (a) For the purpose of making a blight determination under Subsection 17C-5-402(2)(c)(ii), a blight study is valid for one year from the day on which the blight study is completed.
 - (b)
 - (i) Except as provided in Subsection (3)(b)(ii), an agency that makes a blight determination under a valid blight study and subsequently adopts a community reinvestment project area plan in accordance with Section 17C-5-104 may amend the community reinvestment project area plan without conducting a new blight study.
 - (ii) An agency shall conduct a supplemental blight study for the area proposed to be added to the community reinvestment project area if the agency proposes an amendment to a community reinvestment project area plan that:
 - (A) increases the community reinvestment project area's geographic boundary and the area proposed to be added was not included in the original blight study; and
 - (B) provides for the use of eminent domain within the area proposed to be added to the community reinvestment project area.

Enacted by Chapter 350, 2016 General Session

17C-5-404 Blight hearing -- Owners may review evidence of blight.

- (1) In a hearing required under Subsection 17C-5-402(2)(b), an agency shall:
 - (a) permit all evidence of the existence or nonexistence of blight within the survey area to be presented; and
 - (b) permit each record owner of property located within the survey area or the record property owner's representative the opportunity to:
 - (i) examine and cross-examine each witness that provides evidence of the existence or nonexistence of blight; and
 - (ii) present evidence and testimony, including expert testimony, concerning the existence or nonexistence of blight.
- (2) An agency shall allow each record owner of property located within a survey area the opportunity, for at least 30 days before the day on which the hearing takes place, to review the evidence of blight compiled by the agency or by the person or firm conducting the blight study for the agency, including any expert report.

Enacted by Chapter 350, 2016 General Session

17C-5-405 Conditions on board determination of blight -- Conditions of blight caused by a participant.

- (1) A board may not make a finding of blight in a resolution under Subsection 17C-5-402(2)(c)(ii) unless the board finds that:
 - (a)
 - (i) the survey area consists predominantly of nongreenfield parcels;
 - (ii) the survey area is currently zoned for urban purposes and generally served by utilities;
 - (iii) at least 50% of the parcels within the survey area contain nonagricultural or nonaccessory buildings or improvements used or intended for residential, commercial, industrial, or other urban purposes;
 - (iv) the present condition or use of the survey area substantially impairs the sound growth of the community, delays the provision of housing accommodations, constitutes an economic liability, or is detrimental to the public health, safety, or welfare, as shown by the existence within the survey area of at least four of the following factors:
 - (A) although sometimes interspersed with well maintained buildings and infrastructure, substantial physical dilapidation, deterioration, or defective construction of buildings or infrastructure, or significant noncompliance with current building code, safety code, health code, or fire code requirements or local ordinances;
 - (B) unsanitary or unsafe conditions in the survey area that threaten the health, safety, or welfare of the community;
 - (C) environmental hazards, as defined in state or federal law, which require remediation as a condition for current or future use and development;
 - (D) excessive vacancy, abandoned buildings, or vacant lots within an area zoned for urban use and served by utilities;
 - (E) abandoned or outdated facilities that pose a threat to public health, safety, or welfare;
 - (F) criminal activity in the survey area, higher than that of comparable nonblighted areas in the municipality or county; and
 - (G) defective or unusual conditions of title rendering the title nonmarketable; and
 - (v)

- (A) at least 50% of the privately owned parcels within the survey area are affected by at least one of the factors, but not necessarily the same factor, listed in Subsection (1)(a)(iv); and
 - (B) the affected parcels comprise at least 66% of the privately owned acreage within the survey area; or
- (b) the survey area includes some or all of a superfund site, inactive industrial site, or inactive airport site.
- (2) A single parcel comprising 10% or more of the acreage within the survey area may not be counted as satisfying the requirement described in Subsection (1)(a)(iii) or (iv) unless at least 50% of the area of the parcel is occupied by buildings or improvements.
- (3)
 - (a) Except as provided in Subsection (3)(b), for purposes of Subsection (1), if a participant or proposed participant involved in the project area development has caused a condition listed in Subsection (1)(a)(iv) within the survey area, that condition may not be used in the determination of blight.
 - (b) Subsection (3)(a) does not apply to a condition that was caused by an owner or tenant who later becomes a participant.

Enacted by Chapter 350, 2016 General Session

17C-5-406 Challenging a finding of blight -- Time limit -- Standards governing court review.

- (1) If a board makes a finding of blight under Subsection 17C-5-402(2)(c)(ii) and the finding is approved by resolution adopted by the taxing entity committee, a record owner of property located within the survey area may challenge the finding by filing an action in the district court in the county in which the property is located.
- (2) A person shall file an action under Subsection (1) no later than 30 days after the day on which the taxing entity committee approves the board's finding of blight.
- (3) In an action under this section:
 - (a) the agency shall transmit to the district court the record of the agency's proceedings, including any minutes, findings, orders, or transcripts of the agency's proceedings;
 - (b) the district court shall review the finding of blight under the standards of review provided in Subsection 10-9a-801(3); and
 - (c)
 - (i) if there is a record:
 - (A) the district court's review is limited to the record provided by the agency; and
 - (B) the district court may not accept or consider any evidence outside the record of the agency, unless the evidence was offered to the agency and the district court determines that the agency improperly excluded the evidence; or
 - (ii) if there is no record, the district court may call witnesses and take evidence.

Enacted by Chapter 350, 2016 General Session