

Chapter 8 Housing and Community Development Division

Part 1 Definitions

35A-8-101 Definitions.

As used in this chapter:

- (1) "Accessible housing" means housing which has been constructed or modified to be accessible, as described in the State Construction Code or an approved code under Title 15A, State Construction and Fire Codes Act.
- (2) "Director" means the director of the division.
- (3) "Division" means the Housing and Community Development Division.
- (4) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.
- (5) "Moderate income housing unit" means a housing unit that qualifies as moderate income housing.

Amended by Chapter 406, 2022 General Session

Part 2 Housing and Community Development Division

35A-8-201 Housing and Community Development Division.

The Housing and Community Development Division is under the administration and general supervision of the director.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-202 Powers and duties of division.

- (1) The division shall:
 - (a) assist local governments and citizens in the planning, development, and maintenance of necessary public infrastructure and services;
 - (b) cooperate with, and provide technical assistance to, counties, cities, towns, regional planning commissions, area-wide clearinghouses, zoning commissions, parks or recreation boards, community development groups, community action agencies, and other agencies created for the purpose of aiding and encouraging an orderly, productive, and coordinated development of the state and its political subdivisions;
 - (c) assist the governor in coordinating the activities of state agencies which have an impact on the solution of community development problems and the implementation of community plans;
 - (d) serve as a clearinghouse for information, data, and other materials which may be helpful to local governments in discharging their responsibilities and provide information on available federal and state financial and technical assistance;

- (e) carry out continuing studies and analyses of the problems faced by communities within the state and develop such recommendations for administrative or legislative action as appear necessary;
 - (f) assist in funding affordable housing;
 - (g) support economic development activities through grants, loans, and direct programs financial assistance;
 - (h) certify project funding at the local level in conformance with federal, state, and other requirements;
 - (i) utilize the capabilities and facilities of public and private universities and colleges within the state in carrying out its functions; and
 - (j) assist and support local governments, community action agencies, and citizens in the planning, development, and maintenance of home weatherization, energy efficiency, and antipoverty activities.
- (2) The division may:
- (a) by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, seek federal grants, loans, or participation in federal programs;
 - (b) if any federal program requires the expenditure of state funds as a condition to participation by the state in any fund, property, or service, with the governor's approval, expend whatever funds are necessary out of the money provided by the Legislature for the use of the department;
 - (c) in accordance with Part 9, Domestic Violence Shelters, assist in developing, constructing, and improving shelters for victims of domestic violence, as described in Section 77-36-1, through loans and grants to nonprofit and governmental entities; and
 - (d) assist, when requested by a county or municipality, in the development of accessible housing.

Amended by Chapter 281, 2021 General Session

Part 3

Community Impact Fund Act

35A-8-301 Legislative intent -- Purpose and policy.

- (1) It is the intent of the Legislature to make available funds received by the state from federal mineral lease revenues under Section 59-21-2, bonus payments on federal oil shale lease tracts U-A and U-B, and all other bonus payments on federal mineral leases to be used for planning, construction and maintenance of public facilities, and provision of public service, subject to the limitations provided for in Section 35 of the Mineral Leasing Act of 1920 (41 Stat. 450, 30 U.S.C. Sec. 191).
- (2) To the extent allowed under the Mineral Leasing Act, any ambiguity as to whether a particular use of the lease revenue and bonus payments described in Subsection (1) is a permissible use under this part shall be resolved in favor of upholding the use.
- (3) The purpose of this part is to maximize the long term benefit of funds derived from these lease revenues and bonus payments by fostering funding mechanisms which will, consistent with sound financial practices, result in the greatest use of financial resources for the greatest number of citizens of this state, with priority given to those communities designated as impacted by the development of natural resources covered by the Mineral Leasing Act.

- (4) The policy of this state is to promote cooperation and coordination between the state and the state's agencies and political subdivisions with individuals, firms, and business organizations engaged in the development of the natural resources of this state.

Amended by Chapter 339, 2021 General Session

35A-8-302 Definitions.

As used in this part:

- (1) "Bonus payments" means that portion of the bonus payments received by the United States government under the Leasing Act paid to the state under Section 35 of the Leasing Act, 30 U.S.C. Sec. 191, together with any interest that had accrued on those payments.
- (2) "Impact board" means the Permanent Community Impact Fund Board created under Section 35A-8-304.
- (3) "Impact fund" means the Permanent Community Impact Fund established by this chapter.
- (4) "Interlocal agency" means a legal or administrative entity created by a subdivision or combination of subdivisions under the authority of Title 11, Chapter 13, Interlocal Cooperation Act.
- (5) "Leasing Act" means the Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec. 181 et seq.
- (6) "Qualifying sales and use tax distribution reduction" means that, for the calendar year beginning on January 1, 2008, the total sales and use tax distributions a city received under Section 59-12-205 were reduced by at least 15% from the total sales and use tax distributions the city received under Section 59-12-205 for the calendar year beginning on January 1, 2007.
- (7)
 - (a) "Planning" means any of the following performed by or on behalf of the state, a subdivision, or an interlocal entity:
 - (i) a study, analysis, plan, or survey; or
 - (ii) activities necessary to obtain a permit or land use approval, including review to determine the need, cost, or feasibility of obtaining a permit or land use approval.
 - (b) "Planning" includes:
 - (i) the preparation of maps and guidelines;
 - (ii) land use planning;
 - (iii) a study or analysis of:
 - (A) the social or economic impacts associated with natural resource development;
 - (B) the demand for the transportation of individuals or goods;
 - (C) state, regional, and local development and growth;
 - (D) population and employment;
 - (E) development related to natural resources; and
 - (F) as related to any other activity described in this Subsection (7), engineering, financial analysis, legal analysis, or any other analysis helpful to the state, subdivision, or interlocal agency; and
 - (iv) any activity described in this Subsection (7) regardless of whether the activity is for a public facility or a public service.
- (8) "Public facility" means a facility:
 - (a) in whole or in part, owned, controlled, or operated by the state, a subdivision, or an interlocal agency; and
 - (b) that serves a public purpose.
- (9)
 - (a) "Public service" means a service that:

- (i) is provided, in whole or in part, by or on behalf of the state, a subdivision, or an interlocal agency; and
- (ii) serves a public purpose.
- (b) "Public service" includes:
 - (i) a service described in Subsection (9)(a) regardless of whether the service is provided in connection with a public facility;
 - (ii) the cost of providing a service described in Subsection (9)(a), including administrative costs, wages, and legal fees; and
 - (iii) a contract with a public postsecondary institution to fund research, education, or a public service program.
- (10) "Subdivision" means a county, city, town, county service area, special service district, special improvement district, water conservancy district, water improvement district, sewer improvement district, housing authority, building authority, school district, or public postsecondary institution organized under the laws of this state.
- (11)
 - (a) "Throughput infrastructure project" means the following facilities, whether located within, partially within, or outside of the state:
 - (i) a bulk commodities ocean terminal;
 - (ii) a pipeline for the transportation of liquid or gaseous hydrocarbons;
 - (iii) electric transmission lines and ancillary facilities;
 - (iv) a shortline freight railroad and ancillary facilities;
 - (v) a plant or facility for storing, distributing, or producing hydrogen, including the liquification of hydrogen, for use as a fuel in zero emission motor vehicles, for electricity generation, or for industrial use; or
 - (vi) a plant for the production of zero emission hydrogen fueled trucks.
 - (b) "Throughput infrastructure project" includes:
 - (i) an ownership interest or a joint or undivided ownership interest in a facility;
 - (ii) a membership interest in the owner of a facility; or
 - (iii) a contractual right, whether secured or unsecured, to use all or a portion of the throughput, transportation, or transmission capacity of a facility.

Amended by Chapter 339, 2021 General Session

35A-8-303 Impact fund -- Deposits and contents -- Use of fund money.

- (1) There is created an enterprise fund entitled the "Permanent Community Impact Fund."
- (2) The fund consists of:
 - (a) all amounts appropriated to the impact fund under Section 59-21-2;
 - (b) bonus payments deposited to the impact fund under Subsection 59-21-1(2);
 - (c) all amounts appropriated to the impact fund under Section 53C-3-203;
 - (d) all amounts received for the repayment of loans made by the impact board under this chapter; and
 - (e) all other money appropriated or otherwise made available to the impact fund by the Legislature.
- (3) The state treasurer shall:
 - (a) invest the money in the impact fund by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act; and
 - (b) deposit all interest or other earnings derived from those investments into the impact fund.

- (4) The amounts in the impact fund available for loans, grants, administrative costs, or other purposes of this part shall be limited to that which the Legislature appropriates for these purposes.
- (5) Federal mineral lease revenue received by the state under the Leasing Act that is deposited into the impact fund shall be used:
 - (a) in a manner consistent with the provisions of:
 - (i) the Leasing Act; and
 - (ii) this part; and
 - (b) for loans, grants, or both to state agencies or subdivisions that are socially or economically impacted by the leasing of minerals under the Leasing Act.
- (6) The money described in Subsection (2)(c) shall be used for grants to political subdivisions of the state to mitigate the impacts resulting from the development or use of school and institutional trust lands.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-304 Permanent Community Impact Fund Board created -- Members -- Terms -- Chair -- Expenses.

- (1) There is created within the department the Permanent Community Impact Fund Board composed of 11 members as follows:
 - (a) the state treasurer or the state treasurer's designee;
 - (b) the chair of the Transportation Commission or the chair's designee;
 - (c) the executive director of the Governor's Office of Planning and Budget or the executive director's designee;
 - (d) a locally elected official who resides in Carbon, Emery, Grand, or San Juan County;
 - (e) a locally elected official who resides in Juab, Millard, Sanpete, Sevier, Piute, or Wayne County;
 - (f) a locally elected official who resides in Duchesne, Daggett, or Uintah County;
 - (g) a locally elected official who resides in Beaver, Iron, Washington, Garfield, or Kane County;
 - (h) a locally elected official from the county that:
 - (i) produced the most mineral lease money related to oil extraction during the four-year period immediately preceding the term of appointment, as determined by the department at the end of each term; and
 - (ii) does not already have a representative on the impact board;
 - (i) a locally elected official from the county that:
 - (i) produced the most mineral lease money related to natural gas extraction during the four-year period immediately preceding the term of appointment, as determined by the department at the end of each term; and
 - (ii) does not already have a representative on the impact board;
 - (j) a locally elected official from the county that:
 - (i) produced the most mineral lease money related to coal extraction during the four-year period immediately preceding the term of appointment, as determined by the department at the end of each term; and
 - (ii) does not already have a representative on the impact board; and
 - (k) an individual who resides in a county of the third, fourth, fifth, or sixth class, appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.
- (2)

- (a) The members specified under Subsections (1)(d) through (j) may not reside in the same county and shall be:
 - (i) nominated by the Board of Directors of the Southeastern Association of Local Governments, the Six County Association of Governments, the Uintah Basin Association of Governments, and the Five County Association of Governments, respectively, except that the members specified under Subsections (1)(h) through (j) shall be nominated by the Board of Directors of the Association of Governments from the region of the state in which the county is located; and
 - (ii) appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.
- (b) Except as required by Subsection (2)(c), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.
- (c) Notwithstanding the requirements of Subsection (2)(b), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.
- (d) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
- (3) When the governor makes a new appointment or reappointment under Subsection (2)(b), or a vacancy appointment under Subsection (2)(d), the governor's new appointment, reappointment, or vacancy appointment shall be made with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.
- (4) The terms of office for the members specified under Subsections (1)(a) through (c) shall run concurrently with the term of office for the commission, department, or office from which each member comes.
- (5)
 - (a) The member specified under Subsection (1)(k) is the chair of the impact board.
 - (b) The chair of the impact board is responsible for the call and conduct of meetings.
- (6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (7) A member described in Subsections (1)(d) through (k) shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.
- (8)
 - (a) A majority of the members of the impact board constitutes a quorum.
 - (b) Action by a majority vote of a quorum of the impact board constitutes action by the impact board.
- (9) The department shall provide staff support to the impact board.

Amended by Chapter 529, 2024 General Session

35A-8-305 Duties -- Loans -- Interest.

- (1) The impact board shall:
 - (a) make grants and loans from the amounts appropriated by the Legislature out of the impact fund to state agencies, subdivisions, and interlocal agencies that are or may be socially or economically impacted, directly or indirectly, by mineral resource development for:
 - (i) planning;

- (ii) construction and maintenance of public facilities; and
 - (iii) provision of public services;
 - (b) establish the criteria by which the loans and grants will be made;
 - (c) determine the order in which projects will be funded;
 - (d) in conjunction with other agencies of the state, subdivisions, or interlocal agencies, conduct studies, investigations, and research into the effects of proposed mineral resource development projects upon local communities;
 - (e) sue and be sued in accordance with applicable law;
 - (f) qualify for, accept, and administer grants, gifts, loans, or other funds from:
 - (i) the federal government; and
 - (ii) other sources, public or private; and
 - (g) perform other duties assigned to it under Sections 11-13-306 and 11-13-307.
- (2) Money, including all loan repayments and interest, in the impact fund derived from bonus payments may be used for any of the purposes set forth in Subsection (1)(a) but may only be given in the form of interest bearing loans to be paid back into the impact fund by the agency, subdivision, or interlocal agency.
- (3) The impact board may make a grant or loan under Subsection (1) regardless of whether the activity results in more than one impact or outcome, including an increase in natural resource development or an increase in economic development.
- (4) If the public service described in Subsection (1)(a) is a contract with a public postsecondary institution described in Subsection 35A-8-302(9)(b)(iii), the contract shall be:
- (a) based on an application to the impact board from the impacted county; and
 - (b) approved by the county legislative body.

Amended by Chapter 339, 2021 General Session

35A-8-306 Powers.

The impact board may:

- (1) appoint, where it considers this appropriate, a hearing examiner or administrative law judge with authority to conduct hearings, make determinations, and enter appropriate findings of facts, conclusions of law, and orders under authority of the impact board under Sections 11-13-306 and 11-13-307;
- (2) appoint additional professional and administrative staff necessary to effectuate Sections 11-13-306 and 11-13-307;
- (3) make independent studies regarding matters submitted to it under Sections 11-13-306 and 11-13-307 that the impact board, in its discretion, considers necessary, which studies shall be made a part of the record and may be considered in the impact board's determination; and
- (4) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to perform the impact board's responsibilities under this part.

Amended by Chapter 89, 2019 General Session

35A-8-307 Impact fund administered by impact board -- Eligibility for assistance -- Review by board -- Administration costs -- Annual report.

- (1)
 - (a) The impact board shall:
 - (i) administer the impact fund in a manner that will keep a portion of the impact fund revolving;
 - (ii) determine provisions for repayment of loans;

- (iii) establish criteria for determining eligibility for assistance under this part; and
 - (iv) consider recommendations from the School and Institutional Trust Lands Administration when awarding a grant described in Subsection 35A-8-303(6).
- (b)
- (i) The criteria for awarding loans or grants made from funds described in Subsection 35A-8-303(5) shall be consistent with the requirements of Subsection 35A-8-303(5).
 - (ii) The criteria for awarding grants made from funds described in Subsection 35A-8-303(2)(c) shall be consistent with the requirements of Subsection 35A-8-303(6).
- (c) In order to receive assistance under this part, subdivisions and interlocal agencies shall submit formal applications containing the information that the impact board requires.
- (2) In determining eligibility for loans and grants under this part, the impact board shall consider the following:
- (a) the subdivision's or interlocal agency's current mineral lease production;
 - (b) the feasibility of the actual development or the increased development of a resource that may impact the subdivision or interlocal agency directly or indirectly;
 - (c) current taxes being paid by the subdivision's or interlocal agency's residents;
 - (d) the borrowing capacity of the subdivision or interlocal agency, including:
 - (i) the subdivision's or interlocal agency's ability and willingness to sell bonds or other securities in the open market; and
 - (ii) the subdivision's or interlocal agency's current and authorized indebtedness;
 - (e) all possible additional sources of state and local revenue, including utility user charges;
 - (f) the availability of federal assistance funds;
 - (g) probable growth of population due to actual or prospective natural resource development in an area;
 - (h) existing public facilities and services;
 - (i) the extent of the expected direct or indirect impact upon public facilities and public services of the actual or prospective natural resource development in an area; and
 - (j) the extent of industry participation in an impact alleviation plan, either as specified in Title 63M, Chapter 5, Resource Development Act, or otherwise.
- (3) The impact board may not fund an education project that could otherwise have reasonably been funded by a school district through a program of annual budgeting, capital budgeting, bonded indebtedness, or special assessments.
- (4) The impact board may restructure all or part of the agency's or subdivision's liability to repay loans for extenuating circumstances.
- (5) The impact board shall:
- (a) review the proposed uses of the impact fund for loans or grants before approving them and may condition its approval on whatever assurances the impact board considers necessary to ensure that proceeds of the loan or grant will be used in accordance with the Leasing Act and this part; and
 - (b) ensure that each loan specifies the terms for repayment and is evidenced by general obligation, special assessment, or revenue bonds, notes, or other obligations of the appropriate subdivision or interlocal agency issued to the impact board under whatever authority for the issuance of those bonds, notes, or obligations exists at the time of the loan.
- (6) The impact board shall allocate from the impact fund to the department those funds that are appropriated by the Legislature for the administration of the impact fund, but this amount may not exceed 2% of the annual receipts to the impact fund.

- (7) The department shall include in the annual written report described in Section 35A-1-109, the number and type of loans and grants made as well as a list of subdivisions and interlocal agencies that received this assistance.

Amended by Chapter 339, 2021 General Session

35A-8-308 Throughput Infrastructure Fund.

- (1) There is created an enterprise fund known as the Throughput Infrastructure Fund.
- (2) The fund consists of money generated from the following revenue sources:
 - (a) all amounts transferred to the fund by statute;
 - (b) any voluntary contributions received;
 - (c) appropriations made to the fund by the Legislature; and
 - (d) all amounts received from the repayment of loans made by the impact board under Section 35A-8-309.
- (3) The state treasurer shall:
 - (a) invest the money in the fund by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act; and
 - (b) deposit all interest or other earnings derived from those investments into the fund.

Amended by Chapter 367, 2021 General Session

35A-8-309 Throughput Infrastructure Fund administered by impact board -- Uses -- Review by board -- Annual report -- First project.

- (1) The impact board shall:
 - (a) make grants and loans from the Throughput Infrastructure Fund created in Section 35A-8-308 for a throughput infrastructure project;
 - (b) use money transferred to the Throughput Infrastructure Fund in accordance with statute to provide a loan or grant to finance the cost of acquisition or construction of a throughput infrastructure project to one or more local political subdivisions, including a Utah interlocal agency created under Title 11, Chapter 13, Interlocal Cooperation Act;
 - (c) administer the Throughput Infrastructure Fund in a manner that will keep a portion of the fund revolving;
 - (d) determine provisions for repayment of loans;
 - (e) establish criteria for awarding loans and grants; and
 - (f) establish criteria for determining eligibility for assistance under this section.
- (2) The cost of acquisition or construction of a throughput infrastructure project includes amounts for working capital, reserves, transaction costs, and other amounts determined by the impact board to be allocable to a throughput infrastructure project.
- (3) The impact board may restructure or forgive all or part of a local political subdivision's or interlocal agency's obligation to repay loans for extenuating circumstances.
- (4) To receive assistance under this section, a local political subdivision or an interlocal agency shall submit a formal application containing the information that the impact board requires.
- (5)
 - (a) The impact board shall:
 - (i) review the proposed uses of the Throughput Infrastructure Fund for a loan or grant before approving the loan or grant and may condition its approval on whatever assurances the impact board considers necessary to ensure that proceeds of the loan or grant will be used in accordance with this section;

- (ii) ensure that each loan specifies terms for interest deferments, accruals, and scheduled principal repayment; and
- (iii) ensure that repayment terms are evidenced by bonds, notes, or other obligations of the appropriate local political subdivision or interlocal agency issued to the impact board and payable from the net revenues of a throughput infrastructure project.
- (b) An instrument described in Subsection (5)(a)(iii) may be:
 - (i) non-recourse to the local political subdivision or interlocal agency; and
 - (ii) limited to a pledge of the net revenues from a throughput infrastructure project.
- (6)
 - (a) Subject to the restriction in Subsection (6)(b), the impact board shall allocate from the Throughput Infrastructure Fund to the board those amounts that are appropriated by the Legislature for the administration of the Throughput Infrastructure Fund.
 - (b) The amount described in Subsection (6)(a) may not exceed 2% of the annual receipts to the fund.
- (7) The board shall include in the annual written report described in Section 35A-1-109:
 - (a) the number and type of loans and grants made under this section; and
 - (b) a list of local political subdivisions or interlocal agencies that received assistance under this section.
- (8)
 - (a) The first throughput infrastructure project considered by the impact board shall be a bulk commodities ocean terminal project.
 - (b) Upon receipt of an application from an interlocal agency created for the sole purpose of undertaking a throughput infrastructure project that is a bulk commodities ocean terminal project, the impact board shall:
 - (i) grant up to 2% of the money in the Throughput Infrastructure Fund to the interlocal agency to pay or reimburse costs incurred by the interlocal agency preliminary to its acquisition of the throughput infrastructure project; and
 - (ii) fund the interlocal agency's application if the application meets all criteria established by the impact board.

Amended by Chapter 367, 2021 General Session

35A-8-310 Application -- Retroactivity.

- (1) The provisions of Laws of Utah 2021, Chapter 339, apply to any claim for which a court of competent jurisdiction has not issued a final unappealable judgment or order.
- (2) The Legislature finds that the provisions of Laws of Utah 2021, Chapter 339:
 - (a) do not enlarge, eliminate, or destroy vested rights; and
 - (b) clarify legislative intent.

Revisor instructions Chapter 339, 2021 General Session
Enacted by Chapter 339, 2021 General Session

Part 4
Housing Authorities

35A-8-401 Definitions.

As used in this part:

- (1) "Area of operation" means:
 - (a) in the case of an authority of a city, the city, except that the area of operation of an authority of a city does not include an area that lies within the territorial boundaries of some other city; or
 - (b) in the case of an authority of a county, all of the county for which it is created except, that a county authority may not undertake a project within the boundaries of a city unless a resolution has been adopted by the governing body of the city, and by any authority which has been established and authorized to exercise its powers in the city, declaring that there is need for the county authority to exercise its powers within that city.
- (2) "Blighted area" means an area where dwellings predominate that, by reason of dilapidation, overcrowding, faulty arrangement or design, lack of ventilation, light, or sanitary facilities or any combination of these factors, are detrimental to safety, health, and morals.
- (3) "Bonds" means bonds, notes, interim certificates, debentures, or other obligations issued by an authority under this part.
- (4) "City" means a city or town in the state.
- (5) "Clerk" means the city or county clerk, or the officer charged with the duties customarily imposed on the clerk.
- (6) "County" means a county in the state.
- (7) "Elderly" means a person who meets the age, disability, or other conditions established by regulation of the authority.
- (8) "Federal government" includes the United States of America, the Department of Housing and Urban Development, or any other agency or instrumentality, corporate or otherwise, of the United States.
- (9) "Governing body" means, in the case of a city, the council or other body of the city in which is vested legislative authority customarily imposed on the city council, and in the case of a county, the board of county commissioners.
- (10) "Housing authority" or "authority" means a public body corporate and politic created by this part.
- (11)
 - (a) "Housing project" or "project" means a work or undertaking, on contiguous or noncontiguous sites to:
 - (i) demolish, clear, or remove buildings from a blighted area;
 - (ii) provide or assist in providing decent, safe, and sanitary urban or rural dwellings, apartments, or other living accommodations for persons of medium and low income by any suitable methods, including rental, sale of individual units in single or multifamily structures under conventional condominium, cooperative sales contract, lease-purchase agreement, loans, or subsidizing of rentals or charges; or
 - (iii) accomplish a combination of Subsections (11)(a)(i) and (ii).
 - (b) "Housing project" includes:
 - (i) buildings, land, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances;
 - (ii) streets, sewers, water service, utilities, parks, site preparation and landscaping;
 - (iii) facilities for administrative, community, health, recreational, welfare, or other purposes;
 - (iv) the planning of the buildings and other improvements;
 - (v) the acquisition of property or any interest in the property;
 - (vi) the demolition of existing structures;

- (vii) the construction, reconstruction, rehabilitation, alteration, or repair of the improvements and all other work in connection with them; and
- (viii) all other real and personal property and all tangible or intangible assets held or used in connection with the housing project.
- (12) "Major disaster" means a flood, drought, fire, hurricane, earthquake, storm, or other catastrophe, which in the determination of the governing body is of sufficient severity and magnitude to warrant the use of available resources of the federal, state, and local governments to alleviate the damage, hardship, or suffering caused.
- (13) "Mayor" means the mayor of the city or the officer charged with the duties customarily imposed on the mayor or executive head of a city.
- (14) "Obligee of an authority" or "obligee" includes a bondholder, agent or trustee for a bondholder, a lessor demising to the authority used in connection with a project, an assignee or assignees of the lessor's interest in whole or in part, and the federal government when it is a party to a contract with the authority.
- (15) "Persons of medium and low income" mean persons or families who, as determined by the authority undertaking a project, cannot afford to pay the amounts at which private enterprise, unaided by appropriate assistance, is providing a substantial supply of decent, safe and sanitary housing.
- (16) "Person with a disability" means a person with any disability as defined by and covered under the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102.
- (17) "Public body" means a city, county or municipal corporation, commission, district, authority, agency, subdivision, or other body of the foregoing.
- (18) "Real property" includes all lands, improvements, and fixtures on them, property of any nature appurtenant to them or used in connection with them, and every estate, interest, and right, legal or equitable, including terms for years.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-402 Creation of housing authority authorized -- Procedure -- Registration as a limited purpose entity.

- (1) The governing body of each public body of the state, except the state itself, may create an authority, corporate and politic, to be known as a "housing authority."
- (2) The governing body of a city or county shall give consideration to the need for an authority:
 - (a) on its own motion; or
 - (b) upon the filing of a petition signed by 25 electors of the city or county asserting that there is need for an authority to function in the city or county and requesting that its governing body make a declaration to that effect.
- (3) The governing body shall adopt a resolution declaring there is need for an authority and creating an authority in the city or county if it finds:
 - (a) that unsanitary or unsafe inhabited dwelling accommodations exist in the city or county; or
 - (b) that there is a shortage of safe and sanitary dwelling accommodations in the city or county available to persons of medium and low income at rentals or prices they can afford.
- (4)
 - (a) In any suit, action, or proceeding involving the validity or enforcement of a contract of the authority, an authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers upon proof of the adoption of the resolution prescribed in Subsection (3).

- (b) A copy of the resolution duly certified by the clerk shall be admissible in evidence in a suit, action, or proceeding.
- (5) In counties of the third, fourth, fifth, and sixth class, the governing body of each public body of the state, except the state itself, may contract with or execute an interlocal agreement for services to be provided by an existing housing authority established in another political subdivision.
- (6)
 - (a) Each housing authority shall register and maintain the housing authority's registration as a limited purpose entity, in accordance with Section 67-1a-15.
 - (b) A housing authority that fails to comply with Subsection (6)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Amended by Chapter 256, 2018 General Session

35A-8-403 Indian housing authorities.

- (1)
 - (a) There is created, with respect to each Indian tribe, band, or community in the state, a public body corporate and politic, to function in the operating area of the Indian tribe, band, or community to be known as the "housing authority" of the Indian tribe, band, or community, which is an agency of this state, possessing all powers, rights, and functions specified for city and county authorities created under this part.
 - (b) This Indian housing authority may not transact business or exercise its powers unless the governing council of the tribe, band, or community, by proper resolution, declares that there is a need for an authority to function for the tribe, band, or community.
- (2)
 - (a) Except as otherwise provided in this part, the provisions of law applicable to housing authorities created for cities and counties and the commissioners of these authorities shall be applicable to Indian housing authorities and the commissioners of those authorities.
 - (b) The chief or other governing head of an Indian tribe, band, or community may exercise all appointing and other powers with respect to an Indian housing authority that are vested by this part in the mayor of a city relating to a city housing authority.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-404 Commissioners -- Appointment -- Terms -- Quorum -- Meetings -- Employment of other officers and employees authorized.

- (1) If a housing authority is authorized to transact business and exercise powers under this part, not less than five nor more than seven people shall be appointed as commissioners of the authority:
 - (a) in the case of a city, by the mayor, with the advice and consent of the city's governing body;
 - or
 - (b) in the case of a county, by the county's governing body.
- (2)
 - (a) The commissioners first appointed under this part shall serve for terms of one, two, three, four, and five years, respectively, from the date of their appointment.
 - (b) After the first commissioners are appointed under Subsection (2)(a), commissioners are appointed for a term of office of four years.
 - (c) Notwithstanding Subsections (2)(a) and (b), all vacancies are filled for the unexpired term.

- (3) A commissioner qualifies by taking the official oath of office.
- (4) A commissioner may not receive compensation except necessary expenses, including traveling expenses, incurred in the discharge of the commissioner's duties.
- (5) A commissioner holds office until the commissioner's successor is appointed and qualified.
- (6) A certificate of appointment or reappointment of a commissioner shall be:
 - (a) filed with the authority; and
 - (b) conclusive evidence of the appointment of the commissioner.
- (7) The powers of each authority are vested in the commissioners.
- (8)
 - (a) A majority of the commissioners of an authority constitutes a quorum for the purpose of conducting its business and exercising its powers and for all other purposes notwithstanding the existence of any vacancies.
 - (b) The authority may take action upon a vote of a majority of the commissioners present, unless the bylaws of the authority require a larger number.
- (9) Meetings of the commissioners of an authority may be held:
 - (a) anywhere within the area of operation of the authority; or
 - (b) within any area not described in Subsection (9)(a) in which the authority is authorized to undertake a project.
- (10) The commissioners of an authority shall elect a chair and vice chair from the commissioners.
- (11) An authority may employ an executive director, legal and technical experts, and other officers, agents, and employees, permanent and temporary, and shall determine their qualifications, duties, and compensation.
- (12) An authority may delegate to one or more of its agents or employees any powers or duties the authority considers proper.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-405 Disclosure of interest in project -- Restrictions.

- (1) A commissioner, officer, or employee of an authority, who has voluntarily acquired any of the following interests, shall disclose to the commissioners of the authority, as soon as the person has knowledge of the interest, the nature and extent of the interest:
 - (a) a present or future interest, direct or indirect, in a project;
 - (b) a present or future interest, direct or indirect, in a property included in or planned to be included in a project;
 - (c) a contract or proposed contract relating to a project; or
 - (d) any other transaction or agreement with the authority.
- (2) The commissioners shall enter the particulars of the disclosure into the minutes of the authority.
- (3) After a disclosure of interest, the commissioner, officer, or employee may participate in any discussions concerning proposed authority action on the property, contract, transaction, or agreement in which the person has an interest, but the commissioner, officer, or employee may not vote on any action proposed by the authority regarding that property, contract, transaction, or agreement.
- (4) Commissioners, officers, and employees of an authority are not "public officers" for purposes of Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-406 Misconduct of commissioners -- Removal.

- (1) A commissioner of an authority may be removed by the mayor or, in the case of an authority for a county, by the body that appointed the commissioner for inefficiency, neglect of duty, or misconduct in office.
- (2) A commissioner may be removed only after a hearing and after having been given a copy of the charges at least 10 days prior to the hearing and having an opportunity to be heard in person or by counsel.
- (3) If a commissioner is removed, a record of the proceedings, together with the charges and findings, shall be filed in the office of the clerk.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-407 Powers of housing authority.

- (1) An authority has perpetual succession and all the powers necessary to carry out the purposes of this part.
- (2) An authority may:
 - (a) sue and be sued;
 - (b) have a seal and alter it;
 - (c) make and execute contracts and other instruments necessary to the exercise of its powers;
 - (d) make, amend, and repeal bylaws and rules;
 - (e) within its area of operation, prepare, carry out, and operate projects and provide for the acquisition, construction, reconstruction, rehabilitation, improvement, extension, alteration or repair of any project;
 - (f) undertake and carry out studies and analyses of housing needs within its area of operation and ways of meeting those needs, including data with respect to population and family groups and its distribution according to income groups, the amount and quality of available housing, including accessible housing, and its distribution according to rentals and sales prices, employment, wages and other factors affecting the local housing needs and meeting these needs;
 - (g)
 - (i) make the results of studies and analyses available to the public and the building, housing, and supply industries; and
 - (ii) engage in research and disseminate information on housing programs;
 - (h) utilize, contract with, act through, assist, and cooperate or deal with any person, agency, institution, or organization, public or private, for the provision of services, privileges, works, or facilities, or in connection with its projects;
 - (i) notwithstanding anything to the contrary contained in this part or in any other provision of law:
 - (i) agree to any conditions attached to federal financial assistance relating to the determination of prevailing salaries or wages or payment of not less than prevailing salaries or wages or compliance with labor standards in the development or administration of projects;
 - (ii) include in any contract awarded or entered into in connection with a project stipulations requiring that the contractor and all subcontractors comply with requirements as to minimum salaries or wages and maximum hours of labor; and
 - (iii) comply with any conditions attached to the financial aid of the project;
 - (j) lease, rent, sell, or lease with the option to purchase any dwellings, lands, buildings, structures, or facilities embraced in a project;
 - (k) subject to the limitations contained in this part with respect to the rental or charges for dwellings in housing projects, establish and revise the rents or charges for the dwellings;
 - (l) own, hold, and improve real or personal property;

- (m) purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, or otherwise any real or personal property or any interest in it;
 - (n) sell, lease, exchange, transfer, assign, pledge, or dispose of real or personal property or any interest in it;
 - (o) make loans for the provision of housing for occupancy by persons of medium and low income;
 - (p) make loans or grants for the development and construction of accessible housing;
 - (q) insure or provide for the insurance, in stock or mutual companies, of real or personal property or operations of the authority against any risks or hazards;
 - (r) procure or agree to the procurement of government insurance or guarantees of the payment of any bonds, in whole or in part, issued by the authority, including the power to pay premiums on the insurance;
 - (s) invest money held in reserves, sinking funds, or any funds not required for immediate disbursement in property or securities in which savings banks may legally invest money subject to their control;
 - (t) redeem its bonds at the redemption price established or purchase its bonds at less than redemption price, with all bonds that are redeemed or purchased to be canceled;
 - (u) within its area of operation, determine where blighted areas exist or where there is unsafe, insanitary, or overcrowded housing;
 - (v) make studies and recommendations relating to the problem of clearing, replanning, and reconstructing blighted areas, and the problem of eliminating unsafe, insanitary, or overcrowded housing and providing dwelling accommodations and maintaining a wholesome living environment for persons of medium and low income, and cooperate with any public body or the private sector in action taken in connection with those problems;
 - (w) acting through one or more commissioners or other persons designated by the authority, conduct examinations and investigations and hear testimony and take proof under oath at public or private hearings on any matter material for its information;
 - (x) administer oaths, issue subpoenas requiring the attendance of witnesses or the production of books and papers, and issue commissions for the examination of witnesses outside the state who are unable to appear before the authority or are excused from attendance;
 - (y) make available to appropriate agencies, including those charged with the duty of abating or requiring the correction of nuisances or like conditions or of demolishing unsafe or insanitary structures within its area of operation, its findings and recommendations with regard to any building or property where conditions exist that are dangerous to the public health, morals, safety, or welfare; and
 - (z) exercise all or any part or combination of the powers granted under this part.
- (3)
- (a) If there are two or more housing authorities established within a county of the first or second class, then those housing authorities shall create a uniform online application for the housing choice voucher program with links to each of the housing authorities within the county.
 - (b) As used in Subsection (3)(a), "housing choice voucher program" means the federal government's housing assistance program administered by a housing authority, which enables low-income families, the elderly, and the disabled to secure decent, safe, and sanitary housing in the private market.
- (4) No provision of law with respect to the acquisition, operation, or disposition of property by other public bodies is applicable to an authority unless the Legislature specifically states that it is.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-408 Profit from projects prohibited -- Criteria for determining rentals and payments.

- (1) To accomplish the public, governmental, and charitable purposes of this part, the Legislature declares that:
 - (a) an authority manage and operate the authority's housing projects in an efficient manner to enable each housing project to provide decent, safe, and sanitary dwelling accommodations for persons of medium and low income and fix the rentals or payments for these accommodations for persons of low income at low rates; and
 - (b) an authority may not be operated as a source of revenue to the city or county.
- (2) An authority shall fix the rentals or payments for dwellings in the authority's projects at no higher rates than the authority finds necessary in order to produce revenues that, together with all other available money, revenues, income, and receipts of the authority from whatever sources derived, including federal financial assistance necessary to maintain the low-rent character of the projects, is sufficient to:
 - (a) pay, as they become due, the principal and interest on the bonds of the authority;
 - (b) create and maintain reserves required to assure the payment of principal and interest as it becomes due on its bonds;
 - (c) meet the cost of, and provide for, maintaining and operating the projects, including necessary reserves and the cost of any insurance, and the administrative expenses of the authority; and
 - (d) make payments in lieu of taxes and, after payment in full of all obligations for which federal annual contributions are pledged, make repayments of federal and local contributions as it determines are consistent with the maintenance of the low-rent character of projects.
- (3) Rentals or payments for dwellings shall be established and the projects administered, in so far as possible, to assure that any federal financial assistance required is strictly limited to amounts and periods necessary to maintain the low-rent character of the projects.
- (4) Nothing in this section limits the amount an authority may charge for nondwelling facilities.
- (5) All income and revenue described in this section shall be used in the operation of the projects to aid in accomplishing the public, governmental, and charitable purposes of this part.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-409 Eligibility requirements for occupants -- Rights of obligee on default of authority.

- (1) An authority shall make rules establishing eligibility requirements consistent with the purposes and objectives of this part for admission to and continued occupancy in its projects.
- (2) Nothing contained in this section or in Section 35A-8-408 may be construed to limit the power of an authority, with respect to a housing project, to vest in an obligee the right, in case of a default by the authority, to take possession or cause the appointment of a receiver free from the restrictions imposed by this section or Section 35A-8-408.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-410 Penalties for fraudulently obtaining or continuing to receive housing assistance benefits.

- (1) A person may not knowingly, by misrepresentation, impersonation, or other fraudulent means, make a false statement to housing authority personnel or, after being accepted as a recipient of housing authority benefits, fail to disclose to housing authority personnel any:
 - (a) change in household composition;
 - (b) employment change;
 - (c) change in marital status;

- (d) receipt of any other monetary assistance;
 - (e) receipt of in-kind gifts; or
 - (f) other material fact or change in circumstances that would affect the determination of that person's eligibility to receive housing assistance benefits, or would affect the amount of benefits for which the person is eligible.
- (2) A person may not fail to disclose any of the information described in Subsection (1) for the purpose of obtaining or continuing to receive funds or other housing assistance benefits to which the person is not entitled, or in an amount larger than that to which the person is entitled.
- (3) A person who has duties relating to the administration of a housing authority program may not fraudulently misappropriate funds or other assistance with which the person has been entrusted, or of which the person has gained possession by virtue of the person's position.
- (4) A person may not knowingly:
- (a) file or falsify a claim, report, or document required by state or federal law, or provider agreement, to obtain or attempt to obtain unauthorized housing assistance benefits under this part; or
 - (b) attempt to commit, or aid or abet the commission of, an act prohibited by this section.
- (5) The punishment for violation of a provision of this section by a housing assistance recipient is determined by the cumulative value of the money or other benefits the person received from all instances of fraud committed by the person, and not by each separate instance of fraud.
- (6) The punishment for the offenses of this section are:
- (a) a second degree felony if the value of the funds or other benefits received, misappropriated, claimed, or applied for, is equal to or exceeds \$5,000;
 - (b) a third degree felony if the value of the funds or other benefits received, misappropriated, claimed, or applied for, is equal to or greater than \$1,500 but less than \$5,000;
 - (c) a class A misdemeanor if the value of the funds or other benefits received, misappropriated, claimed, or applied for, is equal to or greater than \$500 but less than \$1,500; or
 - (d) a class B misdemeanor if the value of the funds or other benefits received, misappropriated, claimed, or applied for, is less than \$500.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-411 Authorities may join or cooperate.

- (1) Two or more authorities may cooperate with one another or jointly exercise any or all of their powers for the purpose of financing, issuing bonds and other obligations and giving security for them, planning, undertaking, owning, constructing, operating, or contracting with respect to a housing project or projects located within the area of operation of any one or more of the authorities.
- (2) For this purpose, an authority may by resolution authorize a housing authority joining or cooperating with the authority to act on the authority's behalf.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-412 Preference for elderly and persons with a disability.

- (1) For the purpose of increasing the supply of low-rent housing and related facilities for medium and low-income elderly and medium and low-income persons with a disability, an authority may exercise any of its powers under this part in projects involving dwelling accommodations designed specifically for these persons.

- (2) For dwelling units in any projects suitable to the needs of the elderly or persons with a disability, special preference may be extended in admission to those dwelling units to these persons of medium and low income.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-413 Victims of major disaster.

- (1)
 - (a) Notwithstanding the provisions of this or any other law relating to rentals, preferences, or eligibility for admission or occupancy of dwellings in housing projects during the period an authority determines that there is an acute need for housing to assure the availability of dwellings for victims of a major disaster, the authority may undertake the development and administration of housing projects for the federal government.
 - (b) Dwellings in any housing project under the jurisdiction of the authority may be made available to victims of a major disaster.
- (2) An authority may contract with the federal government or a public body for advance payment or reimbursement for the furnishing of housing to victims of a major disaster, including the furnishing of housing free of charge to needy disaster victims during any period covered by a determination of acute need by the authority.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-414 Property and funds of authority declared public property -- Exemption from taxes -- Alternative agreement with public body.

- (1) The property and funds of an authority are declared to be public property used for essential public, governmental, and charitable purposes.
- (2)
 - (a) Subject to Subsections (2)(b) and (c), the property and authority are exempt from all taxes and special assessments of a public body.
 - (b) This tax exemption does not apply to any portion of a project used for a profit-making enterprise.
 - (c) In taxing these portions appropriate allowance shall be made for any expenditure by an authority for utilities or other public services it provides to serve the property.
- (3) In lieu of taxes on its exempt property an authority may agree to make payments to a public body if the authority finds that making the payments is consistent with the maintenance of the low-rent character of housing projects and the achievement of the purposes of this part.

Amended by Chapter 278, 2013 General Session

35A-8-415 Projects subject to local building regulations.

A project of an authority is subject to the planning, zoning, sanitary, and building laws, ordinances, and regulations applicable to the locality in which the project is situated.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-416 Bonds authorized -- Payment -- Security -- Liability -- Purpose -- Exemption from taxes except corporate franchise tax.

- (1) An authority may:

- (a) issue bonds for any of its corporate purposes;
- (b) issue refunding bonds for the purpose of paying or retiring bonds previously issued by it;
- (c) issue bonds on which the principal and interest are payable:
 - (i) exclusively from the income and revenues of the project financed with the proceeds of the bonds;
 - (ii) exclusively from the income and revenues of certain designated projects, whether or not they are financed in whole or in part with the proceeds of the bonds; or
 - (iii) from its revenues generally.
- (2) Bonds issued by the authority may be additionally secured by a pledge of any loan, grant, or contributions, in whole or in part, from the federal government or other source, or a pledge of any income or revenues of the authority.
- (3) The members of an authority and a person executing the bonds are not liable personally on the bonds.
- (4)
 - (a) The bonds and other obligations of an authority are not a debt of the city, county, state, or a political subdivision, and do not constitute indebtedness for purposes of any constitutional or statutory debt limitation or restrictions.
 - (b) A bond or other obligation of an authority shall include a statement on the face of the bond or other obligation that explains that the bond or other obligation is not a debt of the city, county, state, or a political subdivision, and does not constitute indebtedness for purposes of any constitutional or statutory debt limitation or restrictions.
- (5) The city, county, state, or political subdivision is not liable on the bonds or other obligations.
- (6) These bonds or obligations may not be payable out of funds or properties other than those of the authority.
- (7) Bonds of an authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest and income, are exempt from all taxes, except the corporate franchise tax.
- (8) The provisions of this part exempting from taxation the properties of an authority and its bonds and interests and income on them are part of the contract for the security of bonds and have the force of contract, by virtue of this part and without the necessity of this being restated in the bonds, between the bondholders, including all transferees of the bonds, on the one hand and an authority and the state on the other.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-417 Bonds to be authorized by resolution -- Form -- Sale -- Negotiability -- Validity presumed.

- (1) Bonds of an authority are authorized by resolution, may be issued in one or more series, and shall as provided by the resolution or its trust indenture:
 - (a) bear dates, including maturity dates;
 - (b) bear interest rates;
 - (c) be in denominations;
 - (d) be either coupon or registered;
 - (e) carry conversion or registration privileges;
 - (f) have rank or priority;
 - (g) be executed;
 - (h) be payable; and
 - (i) be subject to terms of redemption with or without premium.

- (2)
 - (a) The bonds may bear interest at a variable interest rate as provided by the resolution.
 - (b) The resolution may establish a method, formula, or index to determine the current interest rate on the bonds.
- (3) In connection with the bonds, the authority may authorize and enter into agreements or other arrangements with financial, banking, and other institutions for:
 - (a) letters of credit;
 - (b) standby letters of credit;
 - (c) surety bonds;
 - (d) reimbursement agreements;
 - (e) remarketing agreements;
 - (f) indexing agreements;
 - (g) tender agent agreements; and
 - (h) other agreements with respect to:
 - (i) securing the bonds;
 - (ii) enhancing the marketability and creditworthiness of the bonds;
 - (iii) determining a variable interest rate on the bonds; and
 - (iv) the payment from any legally available source, including proceeds of the bonds, fees, charges, or other amounts coming due from the agreements.
- (4) As provided by resolution, the bonds may be sold at a public or private sale at par value, in excess of par value, or below par value.
- (5) If a member or an officer of an authority whose signature appears on a bond or coupon ceases to be a member or an officer before the delivery of the bond or coupon, the signature is valid and sufficient for all purposes.
- (6) A bond issued under this part is fully negotiable.
- (7) In a suit, action, or proceeding involving the validity or enforceability of a bond of an authority or the security for it, a bond reciting in substance that it has been issued by the authority to aid in financing a project is conclusively considered to have been issued for that purpose, and the project is conclusively considered to have been planned, located, and carried out in accordance with this part.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-418 Bonds and other obligations -- Additional powers of authority.

In connection with the issuance of bonds or the incurring of obligations under leases and in order to secure the payment of bonds or obligations, an authority may:

- (1) pledge all or a part of its gross or net rents, fees, or revenues to which its right currently exists or will accrue;
- (2) mortgage all or a part of its real or personal property owned or acquired;
- (3) covenant against pledging all or a part of its rents, fees, and revenues, or against mortgaging all or a part of its real or personal property to which its right or title then exists or will accrue, or against permitting or suffering any lien on the revenues or property;
- (4) covenant with respect to limitations on its right to sell, lease, or otherwise dispose of any housing project and covenant as to what other, or additional debts or obligations may be incurred by it;
- (5) covenant as to bonds to be issued and as to the issuance of bonds in escrow or otherwise, and as to the use and disposition of the bond proceeds;
- (6) provide for the replacement of lost, destroyed, or mutilated bonds;

- (7) covenant against extending the time for the payment of its bonds or interest on them;
- (8) covenant for the redemption of the bonds and provide the terms and conditions for them;
- (9) covenant, subject to the limitations contained in this part as to the rents and fees to be charged in the operation of a housing project, the amount to be raised each year or other period of time by rents, fees, and other revenues, and as to the use and disposition of the revenues;
- (10) authorize the creation of special funds for money held for construction or operating costs, debt service, reserves, or other purposes, and covenant as to the use and disposition of the money held in those funds;
- (11) prescribe the procedure by which the terms of a contract with bondholders may be amended or abrogated, the proportion of outstanding bonds which must consent to the action, and the manner in which consent shall be given;
- (12) covenant as to the use, maintenance, and replacement of any or all of its real or personal property, the insurance to be carried on it, and the use and disposition of insurance money;
- (13) covenant as to the rights, liabilities, powers, and duties arising upon breach by it of a covenant, condition, or obligation;
- (14) covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations shall become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived;
- (15) vest in an obligee of the authority, or a specified proportion of them, the right to enforce the payment of bonds or any covenants securing or relating to the bonds;
- (16) vest an obligee with the right after default by the authority to take possession of and use, operate, and manage any project or any part of it or any funds connected with them, collect the rents and revenues arising from them, and dispose of them in accordance with the agreement with the authority;
- (17) provide the powers and duties of an obligee and limit the obligee's liabilities;
- (18) provide the terms and conditions upon which an obligee may enforce any covenant or rights securing or relating to the bonds;
- (19) exercise all or any part or combination of the powers granted and make any covenants in addition to the covenants expressly authorized in this section;
- (20) do any acts necessary, convenient, or desirable to secure its bonds; and
- (21) make any covenants or do any acts calculated to make the bonds more marketable.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-419 Issuance of bonds -- Other laws not to apply.

- (1) This part constitutes full authority for the authorization and issuance of bonds.
- (2) No other law for the authorization or issuance of obligations or the deposit of their proceeds that requires a bond election or in any way impedes or restricts the carrying out of the acts authorized to be done shall be construed as applying to any proceedings taken or acts done under this part.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-420 Rights of obligees of authority.

An obligee of an authority, in addition to all other rights conferred on the obligee subject to any contractual restrictions binding upon the obligee, may:

- (1) compel an authority, its officers, agents, or employees to perform each term, provision, and covenant contained in a contract of the authority for the benefit of the obligee and to require

- the carrying out of all covenants and agreements of the authority and the fulfillment of all duties imposed upon it by this part; and
- (2) enjoin any acts or things that may be unlawful, or the violation of any of the rights of an obligee of the authority.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-421 Obligees -- Additional rights conferred by authority.

- (1) An authority may by resolution, trust indenture, mortgage, lease, or other contract, confer upon an obligee the right, in addition to all rights that may otherwise be conferred, upon default as defined in a resolution or instrument, by suit, action, or proceeding in a court of competent jurisdiction to:
 - (a) cause possession of a project, in whole or in part, to be surrendered to the obligee;
 - (b) obtain the appointment of a receiver of a project, in whole or in part, and of the rents and profits from the project; and
 - (c) require the authority and its officers, agents, and employees to account as if they were the trustees of an express trust.
- (2) The receiver:
 - (a) may enter and take possession of the project or any part of it;
 - (b) may operate and maintain the project;
 - (c) may collect and receive all fees, rents, revenues, or other charges arising from the project;
 - (d) shall keep the money collected from the project in a separate account; and
 - (e) shall use the money in accordance with the obligations of the authority as the court directs.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-422 Property of authority exempt from levy and sale -- Obligees excepted -- Waiver.

- (1)
 - (a) Property, including money, acquired or held by an authority under this part shall be exempt from levy and sale by virtue of an execution.
 - (b) An execution or other judicial process may not issue against the property.
 - (c) A judgment against the authority is not a charge or lien upon the property.
- (2) This section does not apply to or limit the right of an obligee to pursue a remedy for the enforcement of a pledge or lien given by the authority on its rents, fees, or revenues or the right of the federal government to pursue a remedy conferred upon it under this part.
- (3) An authority may waive its exemption with respect to claims against a profit-making enterprise occupying a portion of a project if that waiver does not affect or impair the rights of any obligee of the authority.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-423 Financial assistance from federal government permitted.

- (1) In addition to the powers conferred upon an authority by other provisions of this part, an authority may:
 - (a) borrow money or accept contributions, grants, or other financial assistance from the federal government in aid of a project or related activity concerning health, welfare, economic, educational, environmental, or related issues faced by persons of medium and low income;

- (b) take over, lease, or manage a project or undertaking constructed or owned by the federal government; and
 - (c) comply with conditions and enter into contracts, covenants, mortgages, trust indentures, leases, or agreements considered necessary, convenient, or desirable to accomplish the purposes of Subsections (1)(a) and (b).
- (2)
- (a) The purpose and intent of this part is to authorize an authority to do everything necessary or desirable to secure the financial aid or cooperation of the federal government in the provision of decent, safe, and sanitary dwellings and maintaining a wholesome living environment for persons of medium and low income.
 - (b) To accomplish the purpose of Subsection (2)(a) an authority may include in a contract for financial assistance with the federal government the provisions that the federal government may require as conditions to the federal government's financial aid unless those provisions are inconsistent with the purposes of this part.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-424 Defaults -- Conveyance of title to federal government.

- (1) In a contract with the federal government for annual contributions, the authority may obligate itself to convey to the federal government possession of or title to the project upon the occurrence of a substantial default, as defined in the contract, with respect to the covenants and conditions to which the authority is subject.
- (2) This obligation is specifically enforceable and does not constitute a mortgage, notwithstanding any other laws.
- (3) In case of conveyance, the federal government may complete, operate, manage, lease, convey, or otherwise deal with the project and funds in accordance with the terms of the contract if the contract by its terms requires the federal government, as soon as practicable after it is satisfied that all defaults have been cured and that the project will be operated in accordance with the contract, to reconvey the project to the authority.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-425 Powers of public body aiding in project.

- (1) For the purpose of aiding and cooperating in the planning, undertaking, construction, or operation of projects located within its jurisdiction, a public body may, with or without consideration:
 - (a) dedicate, sell, convey, or lease any of its interest in property, or grant easements, licenses, or other rights or privileges to a housing authority or the federal government;
 - (b) cause parks, playgrounds, recreational, community, educational, water, sewer, or drainage facilities, or other works that it is otherwise empowered to undertake to be furnished adjacent to or in connection with these projects;
 - (c) furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, alleys, sidewalks, or other places that it is otherwise empowered to undertake;
 - (d) plan or replan, zone or rezone any parts of the public body, make exceptions from building regulations and ordinances, and make changes in its map;
 - (e) cause the same services to be furnished to a housing authority that the public body may furnish, and provide facilities and services, including feeding facilities and services for tenants, in connection with housing projects;

- (f) enter into agreements with respect to the exercise by the public body of its powers relating to the repair, improvement, condemnation, closing, or demolition of unsafe, insanitary, or unfit buildings;
 - (g) notwithstanding the provisions of any other law, use any money belonging to or within the control of the public body, including money derived from the sale or furnishing of property or facilities to a housing authority, in the purchase of the bonds or other obligations of a housing authority and exercise any related rights;
 - (h) do any and all things necessary or convenient to aid and cooperate in the planning, undertaking, construction, or operation of any projects;
 - (i) incur the entire expense of public improvements made by a public body in exercising the powers granted in this part; and
 - (j) enter into agreements, that may extend over any period notwithstanding any provision or rule of law to the contrary, with a housing authority respecting action to be taken by a public body under any of the powers granted by this part.
- (2) If title to or possession of a project is held by a public governmental agency authorized by law to engage in the development or administration of low-rent housing or slum clearance projects, including an agency or instrumentality of the United States, the provisions of the agreements entered into under Subsection (1)(j) inure to the benefit of and may be enforced by that public body or governmental agency.
- (3) A sale, conveyance, lease, or agreement provided for in this section may be made by a public body without appraisal, public notice, advertisement, or public bidding, notwithstanding any other laws to the contrary.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-426 Agreement by public body to accept payment from authority in lieu of taxes.

In connection with a project of a housing authority located wholly or partly within the area in which a public body is authorized to act, the public body may agree with the housing authority with respect to the payment by the authority of sums in lieu of taxes for any year or period of years that are determined by the authority to be consistent with the maintenance of the low-rent character of housing projects or the achievement of the purposes of this part.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-427 Public body may provide financial aid.

In addition to other aids provided, a public body may provide financial aid to a housing authority by:

- (1) loan, donation, grant, contribution, and appropriation of money;
- (2) abatement or remission of taxes;
- (3) payments in lieu of taxes;
- (4) other charges; or
- (5) other means.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-428 Investment in authority authorized.

- (1) The state, public officers, political subdivisions, public bodies, banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations,

investment companies, insurance companies, insurance associations, other persons carrying on a banking or insurance business, executors, administrators, guardians, trustees, and other fiduciaries may legally invest money or funds belonging to them or within their control in any bonds or other obligations issued by a housing authority created under this part or issued by a public housing authority or agency in the United States, a United States Territory, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands.

- (2) These bonds or other obligations shall be secured by a pledge of annual contributions or other financial assistance to be paid by the United States government or any of its agencies, or by an agreement between the United States government or any of its agencies and the public housing authority or agency in which the United States government or its agency agrees to lend to the public housing authority or agency, prior to the maturity of the bonds or other obligations, money in an amount which, together with any other money irrevocably committed to the payment of interest on the bonds or other obligations, will suffice to pay the principal of the bonds or other obligations with interest to maturity.
- (3) The money, under the terms of the agreement, is required to be used for this purpose, and the bonds and other obligations are authorized security for all public deposits and are fully negotiable in this state.
- (4) Nothing contained in this section relieves a person, firm, or corporation from any duty of exercising reasonable care in selecting securities.
- (5) The provisions of this section apply notwithstanding any restrictions on investments contained in other laws.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-429 Annual report -- Budget -- Minutes.

- (1) At least once a year, an authority shall file with the clerk, with a copy given to the governing body, a report containing:
 - (a) its activities for the preceding year;
 - (b) its approved annual budget; and
 - (c) recommendations for legislation or other action considered necessary to carry out the purposes of this part.
- (2) An authority shall post electronically for public review its:
 - (a) annual approved budget; and
 - (b) minutes of all open meetings held by its board of commissioners.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-430 Provisions controlling -- Acts of governmental bodies deemed administrative.

- (1) The provisions of this part are controlling, notwithstanding anything to the contrary in any other law of this state, city charter, or local ordinance.
- (2) An action of a city, county, or governing body in carrying out the purposes of this part, whether by resolution, ordinance, or otherwise, is considered administrative in character, and no public notice or publication is required with respect to that action.

Renumbered and Amended by Chapter 212, 2012 General Session

Part 5 Olene Walker Housing Loan Fund

35A-8-501 Definitions.

As used in this part:

- (1) "Affordable housing" means housing occupied or reserved for occupancy by households whose incomes are at or below certain income requirements at rental rates affordable to such households.
- (2) "Board" means the Housing Board created by this part.
- (3) "Fund" means the Olene Walker Housing Loan Fund created by this part.
- (4)
 - (a) "Housing sponsor" means a person who constructs, develops, rehabilitates, purchases, or owns a housing development that is or will be subject to legally enforceable restrictive covenants that require the housing development to provide, at least in part, affordable housing.
 - (b) "Housing sponsor" may include:
 - (i) a local public body;
 - (ii) a nonprofit, limited profit, or for profit corporation;
 - (iii) a limited partnership;
 - (iv) a limited liability company;
 - (v) a joint venture;
 - (vi) a subsidiary of the Utah Housing Corporation;
 - (vii) a cooperative;
 - (viii) a mutual housing organization;
 - (ix) a local government;
 - (x) a local housing authority;
 - (xi) a regional or statewide nonprofit housing or assistance organization; or
 - (xii) any other entity that helps provide affordable housing.
- (5) "Rural" means a county in the state other than Utah, Salt Lake, Davis, or Weber.

Amended by Chapter 279, 2017 General Session

35A-8-502 Creation and administration.

- (1)
 - (a) There is created an enterprise fund known as the Olene Walker Housing Loan Fund, administered by the executive director or the executive director's designee.
 - (b) The department is the administrator of the fund.
- (2) There shall be deposited into the fund:
 - (a) grants, paybacks, bonuses, entitlements, and other money received by the department from the federal government to preserve, rehabilitate, build, restore, or renew housing or for other activities authorized by the fund;
 - (b) transfers, grants, gifts, bequests, and money made available from any source to implement this part; and
 - (c) money appropriated to the fund by the Legislature.
- (3) The money in the fund shall be invested by the state treasurer according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, except that all interest or other earnings derived from money in the fund shall be deposited in the fund.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-503 Housing loan fund board -- Duties -- Expenses.

- (1) There is created the Olene Walker Housing Loan Fund Board.
- (2) The board is composed of 14 voting members.
 - (a) The governor shall appoint the following members to four-year terms:
 - (i) two members from local governments, of which:
 - (A) one member shall be a locally elected official who resides in a county of the first or second class; and
 - (B) one member shall be a locally elected official who resides in a county of the third, fourth, fifth, or sixth class;
 - (ii) two members from the mortgage lending community, of which:
 - (A) one member shall have expertise in single-family mortgage lending; and
 - (B) one member shall have expertise in multi-family mortgage lending;
 - (iii) one member from real estate sales interests;
 - (iv) two members from home builders interests, of which:
 - (A) one member shall have expertise in single-family residential construction; and
 - (B) one member shall have expertise in multi-family residential construction;
 - (v) one member from rental housing interests;
 - (vi) two members from housing advocacy interests, of which:
 - (A) one member who resides within any area in a county of the first or second class; and
 - (B) one member who resides within any area in a county of the third, fourth, fifth, or sixth class;
 - (vii) one member of the manufactured housing interest;
 - (viii) one member with expertise in transit-oriented developments;
 - (ix) one member who represents rural interests; and
 - (x) one member who represents the interests of modular housing.
 - (b) The director or the director's designee serves as the secretary of the board.
 - (c) The members of the board shall annually elect a chair from among the voting membership of the board.
- (3)
 - (a) Notwithstanding the requirements of Subsection (2), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.
 - (b) When a vacancy occurs in the membership for any reason, the replacement is appointed for the unexpired term.
- (4)
 - (a) The board shall:
 - (i) meet regularly, at least quarterly to conduct business of the board, on dates fixed by the board;
 - (ii) meet twice per year, with at least one of the meetings in a rural area of the state, to provide information to and receive input from the public regarding the state's housing policies and needs;
 - (iii) keep minutes of its meetings; and
 - (iv) comply with the procedures and requirements of Title 52, Chapter 4, Open and Public Meetings Act.

- (b) Seven members of the board constitute a quorum, and the governor, the chair, or a majority of the board may call a meeting of the board.
- (5) The board shall:
 - (a) review the housing needs in the state;
 - (b) determine the relevant operational aspects of any grant, loan, or revenue collection program established under the authority of this chapter;
 - (c) determine the means to implement the policies and goals of this chapter;
 - (d) select specific projects to receive grant or loan money; and
 - (e) determine how fund money shall be allocated and distributed.
- (6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 431, 2024 General Session

35A-8-504 Distribution of fund money.

- (1) As used in this section:
 - (a) "Community" means the same as that term is defined in Section 17C-1-102.
 - (b) "Income targeted housing" means the same as that term is defined in Section 17C-1-102.
- (2) The executive director shall:
 - (a) make grants and loans from the fund for any of the activities authorized by Section 35A-8-505, as directed by the board;
 - (b) establish the criteria with the approval of the board by which loans and grants will be made; and
 - (c) determine with the approval of the board the order in which projects will be funded.
- (3) The executive director shall distribute, as directed by the board, any federal money contained in the fund according to the procedures, conditions, and restrictions placed upon the use of the money by the federal government.
- (4) The executive director shall distribute, as directed by the board, any funds received under Section 17C-1-412 to pay the costs of providing income targeted housing within the community that created the community reinvestment agency under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act.
- (5) Except for federal money, money received under Section 17C-1-412, and money appropriated for use in accordance with Section 35A-8-2105, the executive director shall distribute, as directed by the board, money in the fund according to the following requirements:
 - (a) the executive director shall distribute at least 70% of the money in the fund to benefit persons whose annual income is at or below 50% of the median family income for the state;
 - (b) the executive director may use up to 6% of the revenues of the fund, including any appropriation to the fund, to offset department or board administrative expenses;
 - (c) the executive director shall distribute any remaining money in the fund to benefit persons whose annual income is at or below 80% of the median family income for the state; and
 - (d) if the executive director or the executive director's designee makes a loan in accordance with this section, the interest rate of the loan shall be based on the borrower's ability to pay.
- (6) The executive director may, with the approval of the board:
 - (a) enact rules to establish procedures for the grant and loan process by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

- (b) service or contract, under Title 63G, Chapter 6a, Utah Procurement Code, for the servicing of loans made by the fund.

Amended by Chapter 413, 2024 General Session

35A-8-504.5 Low-income ADU loan guarantee pilot program.

- (1) As used in this section:
 - (a) "Accessory dwelling unit" means the same as that term is defined in Section 10-9a-103.
 - (b) "Borrower" means a residential property owner who receives a low-income ADU loan from a lender.
 - (c) "Lender" means a trust company, savings bank, savings and loan association, bank, credit union, or any other entity that provides low-income ADU loans directly to borrowers.
 - (d) "Low-income ADU loan" means a loan made by a lender to a borrower for the purpose of financing the construction of an accessory dwelling unit that is:
 - (i) located on the borrower's residential property; and
 - (ii) rented to a low-income individual.
 - (e) "Low-income individual" means an individual whose household income is less than 80% of the area median income.
 - (f) "Pilot program" means the two-year pilot program created in this section.
- (2) The executive director shall establish a two-year pilot program to provide loan guarantees on behalf of borrowers for the purpose of insuring the repayment of low-income ADU loans.
- (3) The executive director may not provide a loan guarantee for a low-income ADU loan under the pilot program unless:
 - (a) the lender:
 - (i) agrees in writing to participate in the pilot program;
 - (ii) makes available to prospective borrowers the option of receiving a low-income ADU loan that:
 - (A) has a term of 15 years; and
 - (B) charges interest at a fixed rate;
 - (iii) monitors the activities of the borrower on a yearly basis during the term of the loan to ensure the borrower's compliance with:
 - (A) Subsection (3)(c); and
 - (B) any other term or condition of the loan; and
 - (iv) promptly notifies the executive director in writing if the borrower fails to comply with:
 - (A) Subsection (3)(c); or
 - (B) any other term or condition of the loan;
 - (b) the loan terms of the low-income ADU loan:
 - (i) are consistent with the loan terms described in Subsection (3)(a)(ii); or
 - (ii) if different from the loan terms described in Subsection (3)(a)(ii), are mutually agreed upon by the lender and the borrower; and
 - (c) the borrower:
 - (i) agrees in writing to participate in the pilot program;
 - (ii) constructs an accessory dwelling unit on the borrower's residential property within one year after the day on which the borrower receives the loan;
 - (iii) occupies the primary residence to which the accessory dwelling unit is associated:
 - (A) after the accessory dwelling unit is completed; and
 - (B) for the remainder of the term of the loan; and
 - (iv) rents the accessory dwelling unit to a low-income individual:

- (A) after the accessory dwelling unit is completed; and
 - (B) for the remainder of the term of the loan.
- (4) At the direction of the board, the executive director shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:
- (a) the minimum criteria for lenders and borrowers to participate in the pilot program;
 - (b) the terms and conditions for loan guarantees provided under the pilot program, consistent with Subsection (3); and
 - (c) procedures for the pilot program's loan guarantee process.
- (5) The executive director shall submit a report on the pilot program to the Business and Labor Interim Committee on or before November 30, 2023.

Enacted by Chapter 102, 2021 General Session

35A-8-505 Activities authorized to receive fund money -- Powers of the executive director.

At the direction of the board, the executive director may:

- (1) provide fund money to any of the following activities:
- (a) the acquisition, rehabilitation, or new construction of low-income housing units;
 - (b) matching funds for social services projects directly related to providing housing for special-need renters in assisted projects;
 - (c) the development and construction of accessible housing designed for low-income persons;
 - (d) the construction or improvement of a shelter or transitional housing facility that provides services intended to prevent or minimize homelessness among members of a specific homeless subpopulation;
 - (e) the purchase of an existing facility to provide temporary or transitional housing for the homeless in an area that does not require rezoning before providing such temporary or transitional housing;
 - (f) the purchase of land that will be used as the site of low-income housing units;
 - (g) the preservation of existing affordable housing units for low-income persons;
 - (h) providing loan guarantees under the two-year pilot program established in Section 35A-8-504.5;
 - (i) the award of predevelopment grants in accordance with Section 35A-8-507.5;
 - (j) the creation or financial support of a mediation program for landlords and tenants designed to minimize the loss of housing for low-income persons, which program may include:
 - (i) funding for the hiring or training of mediators;
 - (ii) connecting landlords and tenants with mediation services; and
 - (iii) providing a limited amount of gap funding to assist a tenant in making a good faith payment towards attorney fees, damages, or other costs associated with eviction proceedings or avoiding eviction proceedings; and
 - (k) other activities that will assist in minimizing homelessness or improving the availability or quality of housing in the state for low-income persons; and
- (2) do any act necessary or convenient to the exercise of the powers granted by this part or reasonably implied from those granted powers, including:
- (a) making or executing contracts and other instruments necessary or convenient for the performance of the executive director and board's duties and the exercise of the executive director and board's powers and functions under this part, including contracts or agreements for the servicing and originating of mortgage loans;
 - (b) procuring insurance against a loss in connection with property or other assets held by the fund, including mortgage loans, in amounts and from insurers it considers desirable;

- (c) entering into agreements with a department, agency, or instrumentality of the United States or this state and with mortgagors and mortgage lenders for the purpose of planning and regulating and providing for the financing and refinancing, purchase, construction, reconstruction, rehabilitation, leasing, management, maintenance, operation, sale, or other disposition of residential housing undertaken with the assistance of the department under this part;
- (d) proceeding with a foreclosure action, to own, lease, clear, reconstruct, rehabilitate, repair, maintain, manage, operate, assign, encumber, sell, or otherwise dispose of real or personal property obtained by the fund due to the default on a mortgage loan held by the fund in preparation for disposition of the property, taking assignments of leases and rentals, proceeding with foreclosure actions, and taking other actions necessary or incidental to the performance of its duties; and
- (e) selling, at a public or private sale, with public bidding, a mortgage or other obligation held by the fund.

Amended by Chapter 102, 2021 General Session

Amended by Chapter 333, 2021 General Session

35A-8-506 Authority of the executive director.

The executive director, with the approval of the board, may grant or lend fund money to a housing sponsor.

Amended by Chapter 279, 2017 General Session

35A-8-507 Application process and priorities.

- (1)
 - (a) In each calendar year that money is available from the fund for distribution by the executive director under the direction of the board, the executive director shall, at least once in that year, announce a grant and loan application period by sending notice to interested persons.
 - (b) The executive director shall accept applications that are received in a timely manner.
- (2) The executive director shall give priority to applications for projects and activities in the following order:
 - (a) first, to applications for projects and activities intended to minimize homelessness;
 - (b) second, to applications for projects and activities that use existing privately owned housing stock, including privately owned housing stock purchased by a nonprofit public development authority; and
 - (c) third, to all other applications.
- (3) Within each level of priority described in Subsection (2), the executive director shall give preference to applications that demonstrate the following:
 - (a) a high degree of leverage with other sources of financing;
 - (b) high recipient contributions to total project costs, including allied contributions from other sources such as professional, craft, and trade services and lender interest rate subsidies;
 - (c) high local government project contributions in the form of infrastructure improvements, or other assistance;
 - (d) projects that encourage ownership, management, and other project-related responsibility opportunities;
 - (e) projects that demonstrate a strong probability of serving the original target group or income level for a period of at least 15 years;

- (f) projects where the applicant has demonstrated the ability, stability, and resources to complete the project;
 - (g) projects that appear to serve the greatest need;
 - (h) projects that provide housing for persons and families with the lowest income;
 - (i) projects that promote economic development benefits;
 - (j) projects that align with a local government plan to address housing and homeless services; and
 - (k) projects that would mitigate or correct existing health, safety, or welfare problems.
- (4) The executive director may give consideration to projects that increase the supply of accessible housing.

Amended by Chapter 131, 2016 General Session

35A-8-507.5 Predevelopment grants.

- (1) The executive director may, under the direction of the board, award one or more predevelopment grants to a nonprofit or for-profit entity:
- (a) in preparation for a project that:
 - (i) involves the construction of moderate income housing units; and
 - (ii) is located within:
 - (A) a city of the fifth or sixth class, or a town, in a rural area of the state; or
 - (B) any municipality or unincorporated area in a county of the fourth, fifth, or sixth class; and
 - (b) in an amount of no more than \$50,000 per project.
- (2) The executive director shall, under the direction of the board, award each predevelopment grant in accordance with the provisions of this section and the provisions related to grant applications, grant awards, and reporting requirements in this part.
- (3) The recipient of a predevelopment grant:
- (a) may use grant funds to offset the predevelopment funds needed to prepare for the construction of low-income housing units, including market studies, surveys, environmental and impact studies, technical assistance, and preliminary architecture, engineering, or legal work; and
 - (b) may not use grant funds to pay for staff salaries or construction costs.
- (4) The executive director shall, under the direction of the board, prioritize the awarding of a predevelopment grant for a project that is located within:
- (a) a county of the fifth or sixth class; and
 - (b) an area that has underdeveloped infrastructure, as demonstrated by at least two of the following:
 - (i) limited or no availability of natural gas;
 - (ii) limited or no availability of a sewer system;
 - (iii) limited or no availability of broadband Internet;
 - (iv) unpaved residential streets; or
 - (v) limited local construction professionals, vendors, or services.

Amended by Chapter 406, 2022 General Session

35A-8-508 Annual accounting.

- (1) The executive director shall monitor the activities of recipients of grants and loans issued under this part on a yearly basis to ensure compliance with the terms and conditions imposed on the recipient by the executive director with the approval of the board or by this part.

- (2) Beginning July 1, 2021, an entity that receives any money from the fund under this part shall provide the executive director with an annual accounting of how the money the entity received from the fund has been spent.
- (3) The executive director shall make an annual report to the board accounting for the expenditures authorized by the board.
- (4) The board shall submit a report to the department for inclusion in the annual written report described in Section 35A-1-109:
 - (a) accounting for expenditures authorized by the board; and
 - (b) evaluating the effectiveness of the program.

Amended by Chapter 406, 2022 General Session

35A-8-509 Economic Revitalization and Investment Fund.

- (1) There is created an enterprise fund known as the "Economic Revitalization and Investment Fund."
- (2) The Economic Revitalization and Investment Fund consists of money from the following:
 - (a) money appropriated to the account by the Legislature;
 - (b) private contributions;
 - (c) donations or grants from public or private entities; and
 - (d) money returned to the department under Subsection 35A-8-512(3)(a).
- (3) The Economic Revitalization and Investment Fund shall earn interest, which shall be deposited into the Economic Revitalization and Investment Fund.
- (4) The executive director may distribute money from the Economic Revitalization and Investment Fund to one or more projects that:
 - (a) include affordable housing units for households whose income is no more than 30% of the area median income for households of the same size in the county or municipality where the project is located; and
 - (b) have been approved by the board in accordance with Section 35A-8-510.
- (5)
 - (a) A housing sponsor may apply to the department to receive a distribution in accordance with Subsection (4).
 - (b) The application shall include:
 - (i) the location of the project;
 - (ii) the number, size, and tenant income requirements of affordable housing units described in Subsection (4)(a) that will be included in the project; and
 - (iii) a written commitment to enter into a deed restriction that reserves for a period of 30 years the affordable housing units described in Subsection (5)(b)(ii) or their equivalent for occupancy by households that meet the income requirements described in Subsection (5)(b)(ii).
 - (c) The commitment in Subsection (5)(b)(iii) shall be considered met if a housing unit is:
 - (i) occupied or reserved for occupancy by a household whose income is no more than 30% of the area median income for households of the same size in the county or municipality where the project is located; or
 - (ii) occupied by a household whose income is no more than 60% of the area median income for households of the same size in the county or municipality where the project is located if that household met the income requirement described in Subsection (4)(a) when the household originally entered into the lease agreement for the housing unit.

- (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make additional rules providing procedures for a person to apply to the department to receive a distribution described in Subsection (4).
- (6) The executive director may expend up to 3% of the revenues of the Economic Revitalization and Investment Fund, including any appropriation to the Economic Revitalization and Investment Fund, to offset department or board administrative expenses.

Amended by Chapter 381, 2024 General Session

35A-8-509.5 Rural Housing Fund.

- (1) There is created an enterprise fund known as the "Rural Housing Fund."
- (2) The Rural Housing Fund consists of money from the following:
 - (a) money appropriated to the account by the Legislature;
 - (b) private contributions;
 - (c) donations or grants from public or private entities; and
 - (d) money returned to the department under Subsection 35A-8-512(3)(b).
- (3) The Rural Housing Fund shall earn interest, which shall be deposited into the Rural Housing Fund.
- (4) Subject to appropriation, the executive director may expend funds in the Rural Housing Fund to provide loans for projects that:
 - (a) are located within:
 - (i) a county of the third, fourth, fifth, or sixth class; or
 - (ii) a municipality in a county of the second class with a population of 10,000 or less;
 - (b) include moderate income housing units; and
 - (c) have been approved by the board in accordance with Section 35A-8-510.
- (5)
 - (a) A housing sponsor may apply to the department to receive a loan under this section.
 - (b) An application under Subsection (5)(a) shall specify:
 - (i) the location of the project;
 - (ii) the number, size, and income requirements of moderate income housing units that will be included in the project; and
 - (iii) a written commitment to enter into a deed restriction that reserves for a period of 50 years the moderate income housing units described in Subsection (5)(b)(ii).
 - (c) A commitment under Subsection (5)(b)(iii) shall be considered satisfied if a housing unit is occupied by a household that met the income requirement for moderate income housing when the household originally entered into the lease agreement for the housing unit.
 - (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules establishing procedures and requirements for housing sponsors to apply for and receive loans under this section.
- (6) The executive director may expend up to 3% of the revenues of the Rural Housing Fund, including any appropriation to the Rural Housing Fund, to offset department or board administrative expenses.

Enacted by Chapter 406, 2022 General Session

35A-8-510 Housing loan fund board approval.

- (1) The board shall review the project applications described in Subsections 35A-8-509(5) and 35A-8-509.5(5).

- (2)
 - (a) The board may approve a project that meets the requirements of Subsections 35A-8-509(4) and (5) to receive funds from the Economic Revitalization and Investment Fund.
 - (b) The board may approve a project that meets the requirements of Subsections 35A-8-509.5(4) and (5) to receive funds from the Rural Housing Fund.
- (3) The board shall give preference to projects:
 - (a) that include significant additional or matching funds from an individual, private organization, or local government entity;
 - (b) that include significant contributions by the applicant to total project costs, including contributions secured by the applicant from other sources such as professional, craft, and trade services and lender interest rate subsidies;
 - (c) with significant local government contributions in the form of infrastructure, improvements, or other assistance;
 - (d) where the applicant has demonstrated the ability, stability, and resources to complete the project;
 - (e) that will serve the greatest need;
 - (f) that promote economic development benefits;
 - (g) that allow integration into a local government housing plan;
 - (h) that would mitigate or correct existing health, safety, or welfare concerns; or
 - (i) that remedy a gap in the supply of and demand for affordable housing.

Amended by Chapter 406, 2022 General Session

35A-8-511 Activities authorized to receive account money.

The executive director may distribute funds from the Economic Revitalization and Investment Fund and the Rural Housing Fund for any of the following activities undertaken as part of an approved project:

- (1) the acquisition, rehabilitation, or new construction of a building that includes moderate income housing units;
- (2) the purchase of land for the construction of a building that will include moderate income housing units; or
- (3) pre-development work, including planning, studies, design, and site work for a building that will include moderate income housing units.

Amended by Chapter 406, 2022 General Session

35A-8-512 Repayment of funds.

- (1) Upon the earlier of 30 years from the date an approved project is placed in service or the sale or transfer of the affordable housing units acquired, constructed, or rehabilitated as part of an approved project funded under Subsection 35A-8-511(1), the housing sponsor shall remit to the department:
 - (a) the total amount of money distributed by the department to the housing sponsor for the project; and
 - (b) an additional amount of money determined by contract with the department prior to the initial disbursement of money.
- (2) Any claim arising under Subsection (1) is a lien against the real property funded under this chapter.
- (3)

- (a) Any money returned to the department under Subsection (1) from a housing sponsor that received funds from the Economic Revitalization and Investment Fund shall be deposited in the Economic Revitalization and Investment Fund.
- (b) Any money returned to the department under Subsection (1) from a housing sponsor that received funds from the Rural Housing Fund shall be deposited in the Rural Housing Fund.

Amended by Chapter 406, 2022 General Session

35A-8-513 Annual accounting.

- (1) The executive director shall monitor the activities of recipients of funds from the Economic Revitalization and Investment Fund and the Rural Housing Fund on a yearly basis to ensure compliance with the terms and conditions imposed on the recipient by the executive director with the approval of the board.
- (2)
 - (a) A housing sponsor that receives funds from the Economic Revitalization and Investment Fund shall provide the executive director with an annual accounting of how the money the entity received from the Economic Revitalization and Investment Fund has been spent and evidence that the commitment described in Subsection 35A-8-509(5) has been met.
 - (b) A housing sponsor that receives funds from the Rural Housing Fund shall provide the executive director with an annual accounting of how the money the entity received from the Rural Housing Fund has been spent and evidence that the commitment described in Subsection 35A-8-509.5(5) has been met.
- (3) The executive director shall make an annual report to the board accounting for the expenditures authorized by the board under the Economic Revitalization and Investment Fund and the Rural Housing Fund.
- (4) The board shall submit a report to the department for inclusion in the annual written report described in Section 35A-1-109 that includes:
 - (a) an accounting for expenditures authorized by the board; and
 - (b) an evaluation of the effectiveness of each program.

Amended by Chapter 406, 2022 General Session

Part 8
Housing Coordination and Planning Act

35A-8-801 Title.

This part is known as the "Housing Coordination and Planning Act."

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-802 Legislative policy and purpose.

- (1)
 - (a) The Legislature declares that it is the policy of the state that to promote the general welfare of its citizens it is necessary to remedy the unsafe and unsanitary housing conditions and the acute shortage of decent, safe, and sanitary dwellings for families of medium and low income, in urban and rural areas.

- (b) The conditions described in Subsection (1)(a) cause an increase and spread of disease and crime, and constitute a menace to the health, safety, morals, and welfare of the state.
- (2) The Legislature declares that it is the policy of the state:
 - (a) to make adequate provision of affordable housing for:
 - (i) persons of medium or low income who are unable to provide themselves with decent housing including:
 - (A) elderly persons;
 - (B) persons with disabilities;
 - (C) veterans;
 - (D) special needs populations;
 - (E) low income persons living on tribal trust lands;
 - (F) persons receiving public assistance under self-sufficiency programs; or
 - (G) low income persons living in mobile homes, as defined in Section 70D-2-102; and
 - (ii) during limited periods, for disaster victims; and
 - (b) that the provision of safe and sanitary dwelling accommodations at rents or prices that persons of medium and low income can afford will materially assist in developing more desirable neighborhoods and alleviating the effects of poverty in this state.
- (3) The purposes of this part and Part 4, Housing Authorities, are to meet these problems by:
 - (a) providing low-cost housing for medium and low income persons; and
 - (b) encouraging cooperation between political subdivisions and the nonprofit sector to make available low-cost housing in all areas of the state.
- (4) It is in the public interest to use the broad financial resources and technical services available to government in cooperation with the ingenuity and expertise of private enterprise to alleviate this lack of safe and sanitary dwellings while stimulating local industry, according to the following principles:
 - (a) The private sector, including nonprofit entities, shall be the primary source of developing and providing affordable housing with state and local incentives to encourage housing development.
 - (b) State money used in the development of housing shall:
 - (i) be heavily leveraged when possible;
 - (ii) be primarily invested as loans;
 - (iii) be primarily spent on housing production; and
 - (iv) give priority to needs of persons of medium or low income who are unable to provide themselves with decent housing including:
 - (A) elderly persons;
 - (B) persons with disabilities;
 - (C) veterans;
 - (D) special needs populations;
 - (E) low income persons living on tribal trust lands;
 - (F) persons receiving public assistance under self-sufficiency programs; and
 - (G) low income persons living in mobile homes, as defined in Section 70D-2-102.
 - (c) When possible based on economic feasibility and effectiveness, state housing programs shall encourage:
 - (i) mixed income developments;
 - (ii) socio-economic diversity in neighborhoods; and
 - (iii) new, multifamily construction.
 - (d) State resources may be used in partnership with political subdivisions or the private sector to promote affordable housing.

- (e) Within appropriations from the Legislature, the state may provide training and technical assistance to Utah's political subdivision, quasi-governmental, and nonprofit housing providers.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-803 Division -- Functions.

- (1) In addition to any other functions the governor or Legislature may assign:
 - (a) the division shall:
 - (i) provide a clearinghouse of information for federal, state, and local housing assistance programs;
 - (ii) establish, in cooperation with political subdivisions, model plans and management methods to encourage or provide for the development of affordable housing that may be adopted by political subdivisions by reference;
 - (iii) undertake, in cooperation with political subdivisions, a realistic assessment of problems relating to housing needs, such as:
 - (A) inadequate supply of dwellings;
 - (B) substandard dwellings; and
 - (C) inability of medium and low income families to obtain adequate housing;
 - (iv) provide the information obtained under Subsection (1)(a)(iii) to:
 - (A) political subdivisions;
 - (B) real estate developers;
 - (C) builders;
 - (D) lending institutions;
 - (E) affordable housing advocates; and
 - (F) others having use for the information;
 - (v) advise political subdivisions of serious housing problems existing within their jurisdiction that require concerted public action for solution;
 - (vi) assist political subdivisions in defining housing objectives and in preparing for adoption a plan of action covering a five-year period designed to accomplish housing objectives within their jurisdiction;
 - (vii) for municipalities or counties required to submit an annual moderate income housing report to the department as described in Section 10-9a-408 or 17-27a-408:
 - (A) assist in the creation of the reports; and
 - (B) review the reports to meet the requirements of Sections 10-9a-408 and 17-27a-408;
 - (viii) establish and maintain a database of moderate income housing units located within the state; and
 - (ix) on or before December 1, 2022, develop and submit to the Commission on Housing Affordability a methodology for determining whether a municipality or county is taking sufficient measures to protect and promote moderate income housing in accordance with the provisions of Sections 10-9a-403 and 17-27a-403; and
 - (b) within legislative appropriations, the division may accept for and on behalf of, and bind the state to, any federal housing or homeless program in which the state is invited, permitted, or authorized to participate in the distribution, disbursement, or administration of any funds or service advanced, offered, or contributed in whole or in part by the federal government.
- (2) The administration of any federal housing program in which the state is invited, permitted, or authorized to participate in distribution, disbursement, or administration of funds or services,

except those administered by the Utah Housing Corporation, is governed by Sections 35A-8-501 through 35A-8-508.

- (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules describing the review process for moderate income housing reports described in Subsection (1)(a)(vii).

Amended by Chapter 406, 2022 General Session

35A-8-804 Technical assistance to political subdivisions for housing plan.

- (1) Within appropriations from the Legislature, the division shall establish a program to assist municipalities to comply with the moderate income housing requirements described in Section 10-9a-403 and counties to comply with the moderate income housing requirements described in Section 17-27a-403.
- (2) Assistance under this section may include:
 - (a) financial assistance for the cost of developing a plan for low and moderate income housing;
 - (b) information on how to meet present and prospective needs for low and moderate income housing; and
 - (c) technical advice and consultation on how to facilitate the creation of low and moderate income housing.
- (3) The division shall submit an annual report to the department regarding the scope, amount, and type of assistance provided to municipalities and counties under this section, including the number of low and moderate income housing units constructed or rehabilitated within the state, for inclusion in the department's annual written report described in Section 35A-1-109.

Amended by Chapter 218, 2018 General Session

35A-8-805 Reporting requirements.

- (1) As used in this section:
 - (a) "Affordable housing" means, as determined by the department, the number of housing units within a county or municipality where a household whose income is at or below 50% of area median income is able to live in a unit without spending more than 30% of their income on housing costs.
 - (b) "County" means the unincorporated area of a county.
 - (c) "Low-income housing" means, as determined by the department, the number of Section 42, Internal Revenue Code, housing units within a county or municipality.
 - (d) "Municipality" means a city or town.
- (2)
 - (a) On or before October 1 of each year, the division shall provide a report to the department for inclusion in the department's annual report described in Section 35A-1-109.
 - (b) The report shall include:
 - (i) an estimate of how many affordable housing units and how many low-income housing units are available in each county and municipality in the state;
 - (ii) a determination of the percentage of affordable housing available in each county and municipality in the state as compared to the statewide average;
 - (iii) a determination of the percentage of low-income housing available in each county and municipality in the state as compared to the statewide average; and
 - (iv) a description of how information in the report was calculated.

Amended by Chapter 438, 2024 General Session

Part 9 Domestic Violence Shelters

35A-8-901 Assistance to domestic violence shelters -- Rulemaking authority.

- (1)
 - (a) The Division of Child and Family Services within the Department of Human Services has statutory responsibility to provide violence services, including temporary shelter, to victims of domestic violence under the provisions of Sections 80-2-102 and 80-2-301.
 - (b) The division may assist the Division of Child and Family Services by providing for the development, construction, and improvement of shelters for victims of domestic violence, as described in Section 77-36-1, through loans and grants to nonprofit and governmental entities.
- (2) The division shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules establishing:
 - (a) procedures for applying for loans and grants;
 - (b) criteria for awarding loans and grants; and
 - (c) requirements for the repayment of loans.
- (3) The division may appoint an advisory panel to:
 - (a) assist the division in developing rules under Subsection (2); and
 - (b) recommend how available funds should be disbursed.
- (4) The division shall make loans and grants with money specifically appropriated for that purpose.
- (5) The division shall coordinate with the Division of Child and Family Services in complying with the provisions of this section.

Amended by Chapter 335, 2022 General Session

Part 10 State Community Services Act

35A-8-1001 Title.

This part is known as the "State Community Services Act."

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-1002 Definitions.

As used in this part:

- (1) "Community action agency" means a local subdivision of the state, a combination of political subdivisions, a separate public agency, or a private nonprofit agency, which:
 - (a) has the authority under its applicable charter or laws to receive funds to support community action activities and other appropriate measures designed to identify and deal with the causes of poverty in the state; and
 - (b) is designated as a community action agency by federal law, federal regulations, or the governor.

- (2) "Community action program budget" means state funds, federal block grants, and federal categorical grants that are received by the state for community action activities.
- (3) "Community action statewide organization" means community action programs, organized on a statewide basis, to enhance the capability of community action agencies.
- (4) "Community Services Block Grant" means the Federal Community Services Block Grant Act, 42 U.S.C. Sec. 9901 et seq., and any corresponding federal regulations.
- (5) "Local share" means cash or in-kind goods and services donated to a community action agency to carry out its responsibilities.
- (6) "Low-income person" means a person who is a member of a household with a gross annual income equal to or less than 125% of the poverty standard accepted by the federal agency designated to establish poverty guidelines.
- (7) "Office" means the State Community Services Office created in Section 35A-8-1003.
- (8) "Service area" means the geographical area within the jurisdiction of a community action agency or a community action statewide organization.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-1003 State Community Services Office created -- Purpose.

- (1) There is created within the Housing and Community Development Division the State Community Services Office.
- (2) The office shall strengthen communities by reducing poverty and improving the quality of life for low-income persons in this state.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-1004 Duties of office.

The office shall:

- (1) coordinate state activities designed to reduce poverty;
- (2) encourage entities in the private sector to participate in efforts to ameliorate poverty in the community;
- (3) cooperate with agencies of local, state, and the federal government in reducing poverty and implementing community, social, and economic programs;
- (4) receive and expend funds for the purposes outlined in this part;
- (5) enter into contracts with and award grants to public and private nonprofit agencies and organizations;
- (6) develop a state plan based on needs identified by community action agencies and community action statewide organizations;
- (7) designate community action agencies to receive funds through the Community Services Block Grant program;
- (8) fund community action agencies and community action statewide organizations;
- (9) make rules in conjunction with the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the purposes of this part;
- (10) provide assistance to local governments or private organizations for the purpose of establishing and operating a community action agency;
- (11) provide technical assistance to community action agencies to improve program planning, program development, administration, and the mobilization of public and private resources;
- (12) convene public meetings that provide citizens the opportunity to comment on public policies and programs to reduce poverty;

- (13) advise the governor and Legislature of the nature and extent of poverty in the state and make recommendations concerning changes in state and federal policies and programs;
- (14) encourage Utah's nonprofit humanitarian assistance agencies serving low-income persons by facilitating, coordinating, training, and providing technical assistance to address the needs of Utah's low-income persons by enhancing management, improving service and program delivery, facilitating partnerships, and preserving flexibility and local initiative;
- (15) develop and implement management goals that fulfill the Community Services Block Grant mission, state requirements, and the mandates of federal legislation;
- (16) prepare a Community Services Block Grant plan that contains provisions describing how the state will carry out the assurances of the Community Services Block Grant Act;
- (17) act as the state agency responsible for the evaluation and improvement of emergency food assistance services in the state;
- (18) monitor the impact of social policies on the emergency food network;
- (19) provide training and technical assistance to grantees to assist their:
 - (a) program development and implementation;
 - (b) compliance with state and federal regulations; and
 - (c) reporting and management information systems;
- (20) make the distributions required by Section 35A-8-1009; and
- (21) administer other programs to alleviate poverty that are assigned to the office.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-1005 Distribution of Community Services Block Grant funds.

Community Services Block Grant funds received by the office shall be distributed as follows:

- (1) 90% to community action agencies;
- (2) 5% to:
 - (a) organizations with a statewide focus to accomplish specific objectives that complement the Community Services Block Grant poverty programs;
 - (b) provide training and technical assistance for grantees of Community Services Block Grant funds; or
 - (c) supplement anti-poverty projects; and
- (3) 5% to reimburse costs incurred by the office in administration of this part.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-1006 Evaluations -- Reports.

- (1) The office shall periodically evaluate grantees of Community Services Block Grant funds as established by rule by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (2) A grantee of Community Services Block Grant funds shall submit to the office a year-end report, covering a reporting period consistent with the federal fiscal year, which provides an account of the grantee's programs operated with or supported by Community Services Block Grant funds, including:
 - (a) the types of programs operated by the grantee;
 - (b) the outcome of each program;
 - (c) the number of persons served by each program;
 - (d) the number of times service was given by each program; and
 - (e) an accounting of the Community Services Block Grant funds expended by the grantee.

- (3) The office shall report annually to the appropriate legislative appropriations subcommittee on the distribution and expenditure of Community Services Block Grant funds.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-1007 Program development by grantees.

Grantees of Community Services Block Grant funds shall develop specific programs and goals, consistent with the Community Services Block Grant Act, designed to provide the most effective solutions to the problems of poverty identified in their communities within the constraints of available funding, including projects related to:

- (1) employment;
- (2) education;
- (3) income management;
- (4) housing;
- (5) emergency assistance;
- (6) nutrition;
- (7) linkages and coordination with other programs;
- (8) health; and
- (9) self-sufficiency.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-1008 Recognition of community action agencies.

The office may:

- (1) recognize eligible organizations as community action agencies;
- (2) withdraw the recognition or terminate funding of a designated community action agency for cause, as established by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
- (3) change the boundaries and the number of recognized community action agencies, provided that the governing board of each affected community action agency concurs in the action.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-1009 Qualified Emergency Food Agencies Fund -- Expenditure of revenues.

- (1) As used in this section:
 - (a) "Association of governments" means the following created under the authority of Title 11, Chapter 13, Interlocal Cooperation Act:
 - (i) an association of governments; or
 - (ii) a regional council that acts as an association of governments.
 - (b) "Food and food ingredients" means the same as that term is defined in Section 59-12-102.
 - (c) "Qualified emergency food agency" means an organization that:
 - (i) is:
 - (A) exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code;
 - (B) an association of governments; or
 - (C) a food pantry operated by a municipality located within the state;
 - (ii) as part of its activities operates a program that has as the program's primary purpose to:
 - (A) warehouse and distribute food to other agencies and organizations providing food and food ingredients to low-income persons; or

- (B) provide food and food ingredients directly to low-income persons; and
- (iii) the office determines to be a qualified emergency food agency.
- (2) There is created an expendable special revenue fund known as the Qualified Emergency Food Agencies Fund.
- (3)
 - (a) The Qualified Emergency Food Agencies Fund shall be funded by the sales and use tax revenues described in:
 - (i) Section 59-12-103;
 - (ii) Section 59-12-204; and
 - (iii) Section 59-12-1102.
 - (b) Any interest earned on the Qualified Emergency Food Agencies Fund shall be deposited into the General Fund.
- (4) The office shall for a fiscal year distribute money deposited into the Qualified Emergency Food Agencies Fund to qualified emergency food agencies within the state as provided in this section.
- (5) A qualified emergency food agency shall file an application with the office before the qualified emergency food agency may receive a distribution under this section.
- (6) A qualified emergency food agency may expend a distribution received in accordance with this section only for a purpose related to:
 - (a) warehousing and distributing food and food ingredients to other agencies and organizations providing food and food ingredients to low-income persons; or
 - (b) providing food and food ingredients directly to low-income persons.
- (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Housing and Community Development Division may make rules providing procedures for implementing the distributions required by this section, including:
 - (a) standards for determining and verifying the amount of a distribution that a qualified emergency food agency may receive;
 - (b) procedures for a qualified emergency food agency to apply for a distribution, including the frequency with which a qualified emergency food agency may apply for a distribution; and
 - (c) consistent with Subsection (1)(c), determining whether an entity is a qualified emergency food agency.

Amended by Chapter 223, 2017 General Session

Part 13

Intermountain Weatherization Training Fund

35A-8-1301 Creation and administration.

- (1) There is created an expendable special revenue fund known as the "Intermountain Weatherization Training Fund."
- (2) The Intermountain Weatherization Training Fund shall consist of:
 - (a) private contributions;
 - (b) donations or grants from public or private entities;
 - (c) fees;
 - (d) any money appropriated by the Legislature; and
 - (e) interest and earnings on fund money.

- (3) The division shall authorize the expenditure of fund money to the Weatherization Training Center for the administration, operation, maintenance, and support of the center subject to:
 - (a) money available in the fund; and
 - (b) rules established under Subsection (5).
- (4) Administrative costs of the Intermountain Weatherization Fund shall be paid from the fund.
- (5) The division shall:
 - (a) administer the money deposited in the Intermountain Weatherization Training Fund;
 - (b) distribute the money in the Intermountain Weatherization Training Fund in accordance with Subsection (5)(c); and
 - (c) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing:
 - (i) the procedures for awarding fund money; and
 - (ii) the procedure for the Weatherization Training Center to apply for money from the Intermountain Weatherization Training Fund.

Amended by Chapter 400, 2013 General Session

Part 14

Home Energy Assistance Target (heat) Program Act

35A-8-1401 Title.

This part is known as the "Home Energy Assistance Target (HEAT) Program Act."

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-1402 Assistance to low-income persons -- Contracts -- Administration.

- (1)
 - (a) The department may assist certain low-income families and individuals in the payment of home energy costs.
 - (b) Assistance given under this part shall be made available to households throughout the state, irrespective of the source of household energy supply.
- (2) The department may contract with one or more public or private agencies to distribute and administer these funds subject to the criteria established by the department.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-1403 Eligibility criteria.

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules establishing eligibility criteria for recipients of assistance under this part.
- (2) A recipient of assistance under this part shall demonstrate:
 - (a) that the recipient's family, household, or individual income is 150% of the federal poverty level or less;
 - (b) that the recipient is responsible for paying the recipient's home energy costs; and
 - (c) compliance with any rules established by the department under this section.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-1404 Guidelines for private contributions -- Assuring equitable distribution.

The department shall coordinate with private contributors to home energy assistance programs, such as REACH and Lend-a-Hand, to help assure equitable statewide distribution of assistance to eligible customers of all vendors of energy services.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-1405 Payment method.

Direct payments for home energy costs shall be made jointly to the responsible householder and to the vendor of energy services to whom the family or individual served owes a payment except in certain cases, as established by rule by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, where payments may be made directly to the responsible householder.

Renumbered and Amended by Chapter 212, 2012 General Session

Part 15
Moratorium on Involuntary Termination of Utility Services

35A-8-1501 Moratorium on involuntary termination for nonpayment of utility bills -- Eligibility criteria -- Department to establish and certify.

- (1)
 - (a) The department shall establish a program for a seasonal moratorium for involuntary termination for nonpayment by residential customers of essential utility bills.
 - (b) An essential utility is a utility regulated by the Public Service Commission under Title 54, Public Utilities, which is in the business of the retail distribution of electricity or natural gas.
 - (c) A residential customer is a customer defined as in a residential class by the Public Service Commission.
- (2) A residential customer shall meet the following criteria to qualify for the program:
 - (a) gross household income is less than 125% of the federal poverty level or the household has suffered a medical or other emergency, loss of employment, or is experiencing other circumstances which have resulted in a substantial loss of income;
 - (b) the customer has made application to public and private energy assistance programs;
 - (c) the customer is willing to make a good faith effort to pay these utility bills on a consistent basis; and
 - (d) any additional information required by the department.
- (3)
 - (a) A residential customer may file with a local department office an affidavit attesting eligibility under the criteria in Subsection (2).
 - (b) The department shall certify that the customer has met the eligibility requirements and forward a copy of the affidavit to the effected utility.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-1502 Contesting a customer's eligibility -- Department to determine case.

When a utility contests the eligibility of any residential customer to participate in the program, the executive director or the executive director's designee shall act as an administrative law judge to make a determination on the case.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-1503 Premoratorium customers' eligibility for moratorium -- Criteria.

A residential customer that has had service of an essential utility discontinued for nonpayment prior to the time the moratorium takes effect shall have service restored and continued during the period of the moratorium if the customer meets the requirements of Section 35A-8-1501 and the customer has entered into a deferred payment agreement with the utility as to arrearages.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-1504 Effective period of moratorium -- Extension by rule.

- (1) The moratorium shall be in effect from November 15 to March 15 of each year.
- (2) The department may, by rule, begin the moratorium at an earlier date or extend it to a later date when severe weather conditions warrant that action.

Renumbered and Amended by Chapter 212, 2012 General Session

Part 16

Uintah Basin Revitalization Fund and Board

35A-8-1601 Definitions.

As used in this part:

- (1) "Board" means the Uintah Basin Revitalization Fund Board.
- (2) "Capital projects" means expenditures for land, improvements on the land, and equipment intended to have long-term beneficial use.
- (3) "County" means:
 - (a) Duchesne County; or
 - (b) Uintah County.
- (4) "Division" means the Housing and Community Development Division.
- (5) "Revitalization Fund" means the Uintah Basin Revitalization Fund.
- (6) "Tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

Amended by Chapter 136, 2019 General Session

35A-8-1602 Legislative intent -- Uintah Basin Revitalization Fund -- Deposits and contents.

- (1) In order to maximize the long-term benefit of severance taxes derived from lands held in trust by the United States for the Tribe and its members by fostering funding mechanisms that will, consistent with sound financial practices, result in the greatest use of financial resources for the greatest number of citizens of the Uintah Basin, and in order to promote cooperation and coordination between the state, its political subdivisions, Indian tribes, and individuals, firms, and business organizations engaged in the development of oil and gas interests held in trust

for the Tribe and its members, there is created an expendable special revenue fund entitled the "Uintah Basin Revitalization Fund."

- (2) The fund consists of all money deposited to the Revitalization Fund under this part and Section 59-5-116.
- (3)
 - (a) The Revitalization Fund shall earn interest.
 - (b) All interest earned on fund money shall be deposited into the fund.

Amended by Chapter 400, 2013 General Session

35A-8-1603 Uintah Basin Revitalization Fund Board created -- Members -- Terms -- Chair -- Quorum -- Expenses.

- (1) There is created within the division the Revitalization Board composed of five members as follows:
 - (a) the governor or his designee;
 - (b) a Uintah County commissioner;
 - (c) a Duchesne County commissioner; and
 - (d) two representatives of the Business Committee of the Tribe.
- (2) The terms of office for the members of the board shall run concurrently with the terms of office for the governor, commissioners, and Business Committee of the Tribe.
- (3) The governor, or his designee, shall be the chair of the board.
- (4) Four board members are a quorum.
- (5) All decisions of the board require four affirmative votes.
- (6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-1604 Duties -- Loans -- Interest.

- (1) The board shall:
 - (a) subject to the other provisions of this part and an agreement entered into under Title 11, Chapter 13, Interlocal Cooperation Act, among the state, the counties, and the Tribe, make recommendations to the division for grants and loans from the revitalization fund to county agencies and the Tribe that are or may be socially or economically impacted, directly or indirectly, by mineral resource development;
 - (b) establish procedures for application for and award of grants and loans including:
 - (i) eligibility criteria;
 - (ii) subject to Subsection 35A-8-1606(2)(b), a preference that capital projects, including subsidized and low-income housing, and other one-time need projects and programs have priority over other projects;
 - (iii) a preference for projects and programs that are associated with the geographic area where the oil and gas were produced; and
 - (iv) coordination of projects and programs with other projects and programs funded by federal, state, and local governmental entities;
 - (c) determine the order in which projects will be funded;

- (d) allocate the amount to be distributed from the revitalization fund for grants or loans to each county and the Tribe during a fiscal year as follows:
 - (i) up to and including the first \$3,000,000 that is approved for distribution by the board during a fiscal year, the board may allocate the amount in accordance with the interlocal agreement described by Subsection (1)(a), except that the board may not allocate less than 75% of the amount under the interlocal agreement to the Tribe unless the interlocal agreement is further modified by statute; and
 - (ii) beginning with fiscal year 2007-08, any amount approved for distribution by the board during that fiscal year in excess of \$3,000,000 shall be allocated equally amongst each county and the Tribe so that each receives 1/3 of the amount approved for distribution by the board in excess of \$3,000,000;
 - (e) qualify for, accept, and administer grants, gifts, loans, or other funds from the federal government and from other sources, public or private; and
 - (f) perform other duties assigned to it under the interlocal agreement described in Subsection (1) (a) that are not prohibited by law or otherwise modified by this part.
- (2) The board shall ensure that loan repayments and interest are deposited into the revitalization fund.
- (3) The interlocal agreement described in Subsection (1)(a) shall be consistent with the following statutes, including any subsequent amendments to those statutes:
- (a) this part;
 - (b) Title 11, Chapter 13, Interlocal Cooperation Act;
 - (c) Section 59-5-116; and
 - (d) any other applicable provision of this Utah Code.

Amended by Chapter 136, 2019 General Session

35A-8-1605 Powers.

- (1) The board may:
 - (a) appoint a hearing examiner or administrative law judge with authority to conduct any hearings, make determinations, and enter appropriate findings of facts, conclusions of law, and orders under authority of the Interlocal Cooperation Act; and
 - (b) make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if necessary to perform its responsibilities.
- (2) The board shall:
 - (a) be subject to the procedures and requirements under Title 52, Chapter 4, Open and Public Meetings Act; and
 - (b) be subject to the procedures and requirements under Title 51, Chapter 7, State Money Management Act.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-1606 Eligibility for assistance -- Applications -- Review by board -- Terms -- Security.

- (1) Counties or the Tribe that wish to receive loans or grants from the board shall submit formal applications to the board containing the information required by the board.
- (2) The board may not fund:
 - (a) start-up or operational costs of private business ventures; and

- (b) general operating budgets of the counties or the Tribe, except that the Tribe may use a grant or loan to fund costs associated with the management and administration of energy or mineral development on:
 - (i) lands held in trust by the United States for the Tribe and its members; or
 - (ii) lands owned by the Tribe.
- (3)
 - (a) The board shall review each application for a loan or grant before approving it.
 - (b) The board may approve loan or grant applications subject to the applicant's compliance with certain conditions established by the board.
 - (c) The board shall:
 - (i) ensure that each loan specifies the terms for repayment; and
 - (ii) secure the loans by proceeds from any general obligation, special assessment, or revenue bonds, notes, or other obligations of the appropriate subdivision.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-1607 Division to distribute money -- Annual report -- Administration costs.

- (1) The division shall distribute loan and grant money if the loan or grant is approved by the board.
- (2) The division shall provide an annual report to the department concerning the number and type of loans and grants made as well as a list of recipients of this assistance for inclusion in the department's annual written report described in Section 35A-1-109.
- (3) The division, with board approval, may use fund money for the administration of the fund, but this amount may not exceed 2% of the annual receipts to the fund.

Amended by Chapter 371, 2014 General Session

35A-8-1608 Deposits into fund.

- (1) Money required to be deposited into the Uintah Basin Revitalization Fund under Section 59-5-116 shall be deposited into the Uintah Basin Revitalization Fund if a business or activity fee or tax based on gross receipts has not been imposed by a county or the Tribe on oil and gas activities.
- (2)
 - (a) Nothing in this section prohibits a county from imposing a charge described in Subsection (1) with respect to any gathering, transmission, or local distribution pipeline in which the county owns an interest.
 - (b) Nothing in this section prohibits the Tribe from imposing a charge described in Subsection (1) with respect to any gathering, transmission, or local distribution pipeline in which the Tribe owns an interest.

Amended by Chapter 241, 2014 General Session

Part 17
Navajo Revitalization Fund Act

35A-8-1701 Title.

This part is known as the "Navajo Revitalization Fund Act."

Amended by Chapter 136, 2019 General Session

35A-8-1702 Definitions.

As used in this part:

- (1) "Board" means the Navajo Revitalization Fund Board.
- (2) "Capital project" means an expenditure for land, improvements on the land, or equipment intended to have long-term beneficial use.
- (3) "Division" means the Housing and Community Development Division.
- (4) "Eligible entity" means:
 - (a) the Navajo Nation;
 - (b) a department or division of the Navajo Nation;
 - (c) a Utah Navajo Chapter;
 - (d) the Navajo Utah Commission;
 - (e) an agency of the state or a political subdivision of the state; or
 - (f) a nonprofit corporation.
- (5) "Navajo Utah Commission" means the commission created by Resolution IGRJN-134-92 of the Intergovernmental Relations Committee of the Navajo Nation Council.
- (6) "Revitalization fund" means the Navajo Revitalization Fund.
- (7) "Utah Navajo Chapter" means any of the following chapters of the Navajo Nation:
 - (a) Aneth Chapter;
 - (b) Dennehotso Chapter;
 - (c) Mexican Water Chapter;
 - (d) Navajo Mountain Chapter;
 - (e) Oljato Chapter;
 - (f) Red Mesa Chapter; and
 - (g) Teec Nos Pos Chapter.

Amended by Chapter 136, 2019 General Session

35A-8-1703 Legislative intent.

- (1) The purpose of this part is to:
 - (a) maximize the long-term benefit of state severance taxes derived from lands in Utah held in trust by the United States for the Navajo Nation and its members by fostering funding mechanisms that will, consistent with sound financial practices, result in the greatest use of financial resources for the greatest number of citizens of San Juan County; and
 - (b) promote cooperation and coordination between the state, its political subdivisions, Indian tribes, and individuals, firms, and business organizations engaged in the development of oil and gas interests in Utah held in trust by the United States for the Navajo Nation and its members.
- (2) Notwithstanding Subsection (1), the fund:
 - (a) consists of state severance tax money to be spent at the discretion of the state; and
 - (b) does not constitute a trust fund.

Amended by Chapter 136, 2019 General Session

35A-8-1704 Navajo Revitalization Fund.

- (1)

- (a) There is created an expendable special revenue fund called the "Navajo Revitalization Fund."
- (b) The revitalization fund shall consist of:
 - (i) money deposited to the revitalization fund under this part;
 - (ii) money deposited to the revitalization fund under Section 59-5-119; and
 - (iii) any loan repayment or interest on a loan issued under this part.
- (2)
 - (a) The revitalization fund shall earn interest.
 - (b) The interest earned on revitalization fund money shall be deposited into the fund.
- (3) Beginning for fiscal year 2010-11, the division may use revitalization fund money for the administration of the revitalization fund, but this amount may not exceed 4% of the annual receipts to the revitalization fund.

Amended by Chapter 136, 2019 General Session

35A-8-1705 Navajo Revitalization Fund Board.

- (1) There is created within the division the Navajo Revitalization Fund Board composed of five members as follows:
 - (a) the governor or the governor's designee;
 - (b) the two members of the San Juan County commission whose districts include portions of the Navajo Reservation;
 - (c) the chair of the Navajo Utah Commission or a member of the commission designated by the chair of the Navajo Utah Commission; and
 - (d) beginning July 1, 2008, a president of a Utah Navajo Chapter or an individual designated by the president under an annual rotation system of Utah Navajo Chapters as follows:
 - (i) the president of a Utah Navajo Chapter shall serve for one year;
 - (ii) the Utah Navajo Chapter is rotated in alphabetical order as provided in Subsection 35A-8-1702(7), except that the rotation will begin on July 1, 2008, with the Dennehotso Chapter;
 - (iii) if the president of a Utah Navajo Chapter under Subsection (1)(d)(ii) is the same individual as the individual listed in Subsection (1)(c):
 - (A) that Utah Navajo Chapter is skipped as part of that rotation; and
 - (B) the president of the next Utah Navajo Chapter in the alphabetical rotation shall serve on the board.
- (2) The term of office for a member of the board described in Subsections (1)(a) through (c) runs concurrently with the term of office for the governor, county commissioner, or member of the Navajo Utah Commission.
- (3)
 - (a) The governor, or the governor's designee, is the chair of the board.
 - (b) The chair shall call necessary meetings.
- (4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (5) The per diem and travel expenses permitted under Subsection (4) may be included as costs of administration of the revitalization fund.
- (6) Four board members are a quorum.

- (7) An affirmative vote of each member of the board present at a meeting when a quorum is present is required for a board decision related to money in or disbursed from the revitalization fund.

Amended by Chapter 348, 2016 General Session

35A-8-1706 Powers -- Duties.

- (1) The board shall:
 - (a) direct the division regarding grants and loans from the revitalization fund to eligible entities to serve persons that are or may be socially or economically impacted, directly or indirectly, by mineral resource development;
 - (b) establish procedures for application for an award of grants and loans including eligibility criteria;
 - (c) coordinate projects and programs with other projects and programs funded by federal, state, and local government entities;
 - (d) determine the order in which projects will be funded; and
 - (e) be subject to the procedures and requirements under Title 52, Chapter 4, Open and Public Meetings Act.
- (2) The board may:
 - (a) qualify for, accept, and administer grants, gifts, loans, or other funds from the federal government and from other sources, public or private; and
 - (b) make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if necessary to perform its responsibilities.

Renumbered and Amended by Chapter 212, 2012 General Session

35A-8-1707 Revitalization fund administered by board -- Eligibility for assistance -- Review by board -- Restrictions on loans and grants -- Division to distribute money.

- (1)
 - (a) If an eligible entity wishes to receive a loan or grant from the board, the eligible entity shall file an application with the board that contains the information required by the board.
 - (b) The board shall review an application for a loan or grant filed under Subsection (1)(a) before approving the loan or grant.
 - (c) The board may approve a loan or grant application subject to the applicant's compliance with the one or more conditions established by the board.
- (2) In determining whether an eligible entity may receive a loan or grant, the board shall give priority to:
 - (a) a capital project or infrastructure, including:
 - (i) electrical power;
 - (ii) water; and
 - (iii) a one time need project;
 - (b) a housing project that consists of:
 - (i) the purchase of new housing;
 - (ii) the construction of new housing; or
 - (iii) a significant remodeling of existing housing; or
 - (c) a matching educational endowment that:
 - (i) promotes economic development within the Utah portion of the Navajo Reservation;
 - (ii) promotes the preservation of Navajo culture, history, and language; or

- (iii) supports a postsecondary educational opportunity for a Navajo student enrolled in a course or program taught within the Utah portion of the Navajo Reservation.
- (3) A loan or grant issued under this part may not fund:
 - (a) a start-up or operational cost of a private business venture;
 - (b) a general operating budget of an eligible entity; or
 - (c) a project that will operate or be located outside of the Navajo Reservation in San Juan County, Utah, except for an educational endowment approved by the board under Subsection (2)(c).
- (4)
 - (a) The board may not approve a loan unless the loan:
 - (i) specifies the terms for repayment; and
 - (ii) is secured by proceeds from a general obligation, special assessment, or revenue bond, note, or other obligation.
 - (b) The division shall deposit a loan repayment or interest on a loan issued under this part into the revitalization fund.
- (5) The board shall give a priority to a loan or grant if the loan or grant includes matching money or in-kind services from:
 - (a) the Navajo Nation;
 - (b) San Juan County;
 - (c) the state;
 - (d) the federal government;
 - (e) a Utah Navajo Chapter; or
 - (f) other private or public organization.
- (6) The division shall distribute loan and grant money:
 - (a) if the loan or grant is approved by the board;
 - (b) in accordance with the instructions of the board, except that the board may not instruct that money be distributed in a manner:
 - (i) inconsistent with this part; or
 - (ii) in violation of a rule or procedure of the department; and
 - (c) in the case of a loan, in accordance with Section 63A-3-205.

Amended by Chapter 136, 2019 General Session

35A-8-1708 Annual report.

The division shall provide an annual report to the department concerning the number and type of loans and grants made as well as a list of recipients of this assistance for inclusion in the department's annual written report described in Section 35A-1-109.

Amended by Chapter 371, 2014 General Session

**Part 21
Private Activity Bonds**

35A-8-2101 Title -- Purpose.

(1) This part is known as "Private Activity Bonds."

- (2) This part establishes procedures to effectively and equitably allocate this state's private activity bond volume cap authorized by the Internal Revenue Code of 1986 in order to maximize the social and economic benefits to this state.

Renumbered and Amended by Chapter 182, 2018 General Session

35A-8-2102 Definitions.

As used in this part:

- (1) "Allocated volume cap" means a volume cap for which:
 - (a) a certificate of allocation is in effect; or
 - (b) bonds have been issued.
- (2) "Allotment accounts" means the various accounts created in Section 35A-8-2106.
- (3) "Board of review" means the Private Activity Bond Review Board created in Section 35A-8-2103.
- (4) "Bond" means any obligation for which an allocation of volume cap is required by the code.
- (5) "Code" means the Internal Revenue Code of 1986, as amended, and any related Internal Revenue Service regulations.
- (6) "Form 8038" means the Department of the Treasury tax form 8038 (OMB No. 1545-0720) or any other federal tax form or other method of reporting required by the Department of the Treasury under Section 149(e) of the code.
- (7) "Issuing authority" means:
 - (a) any county, city, or town in the state;
 - (b) any not-for-profit corporation or joint agency, or other entity acting on behalf of one or more counties, cities, towns, or any combination of these;
 - (c) the state; or
 - (d) any other entity authorized to issue bonds under state law.
- (8) "State" means the state of Utah and any of its agencies, institutions, and divisions authorized to issue bonds or certificates under state law.
- (9) "Volume cap" means the private activity bond volume cap for the state as computed under Section 146 of the code.
- (10) "Year" means each calendar year.

Renumbered and Amended by Chapter 182, 2018 General Session

35A-8-2103 Private Activity Bond Review Board.

- (1) There is created within the department the Private Activity Bond Review Board, composed of the following 11 members:
 - (a)
 - (i) the executive director of the department or the executive director's designee;
 - (ii) the executive director of the Governor's Office of Economic Opportunity or the executive director's designee;
 - (iii) the state treasurer or the state treasurer's designee;
 - (iv) the chair of the Utah Board of Higher Education or the chair's designee; and
 - (v) the chair of the Utah Housing Corporation or the chair's designee; and
 - (b) six local government members who are:
 - (i) three elected or appointed county officials, nominated by the Utah Association of Counties and appointed or reappointed by the governor with the advice and consent of the Senate and in accordance with Title 63G, Chapter 24, Part 2, Vacancies; and

- (ii) three elected or appointed municipal officials, nominated by the Utah League of Cities and Towns and appointed or reappointed by the governor with the advice and consent of the Senate and in accordance with Title 63G, Chapter 24, Part 2, Vacancies.
- (2)
- (a) Except as required by Subsection (2)(b), the terms of office for the local government members of the board of review shall be four-year terms.
 - (b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board of review members are staggered so that approximately half of the board of review is appointed every two years.
 - (c) Members may be reappointed only once.
- (3)
- (a) If a local government member ceases to be an elected or appointed official of the city or county the member is appointed to represent, that membership on the board of review terminates immediately and there shall be a vacancy in the membership.
 - (b) When a vacancy occurs in the local government membership for any reason:
 - (i) the Utah Association of Counties or the Utah League of Cities and Towns shall, within 30 days after the date of the vacancy, nominate an official described in Subsection (1)(b)(i) or (ii), as applicable, to fill the vacancy; and
 - (ii) the governor shall, with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies, appoint the nominee for the unexpired term.
- (4)
- (a) The chair of the board of review is the executive director of the department or the executive director's designee.
 - (b) The chair is nonvoting except in the case of a tie vote.
- (5) Six members of the board of review constitute a quorum.
- (6) Formal action by the board of review requires a majority vote of a quorum.
- (7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
- (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
- (8) The chair of the board of review serves as the state official designated under state law to make certifications required to be made under Section 146 of the code including the certification required by Section 149(e)(2)(F) of the code.
- (9) A member appointed to fill a position described in Subsection (1)(b) shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Amended by Chapter 529, 2024 General Session

35A-8-2104 Powers, functions, and duties of the board of review.

The board of review shall:

- (1) make, subject to the limitations of the code, allocations of volume cap to issuing authorities;
- (2) determine the amount of volume cap to be allocated with respect to approved applications;
- (3) maintain a record of all applications filed by issuing authorities under Section 35A-8-2105 and all certificates of allocation issued under Section 35A-8-2107;
- (4) maintain a record of all bonds issued by issuing authorities during each year;

- (5) determine the amount of volume cap to be treated as a carryforward under Section 146(f) of the code and allocate this carryforward to one or more qualified carryforward purposes;
- (6) make available upon reasonable request a certified copy of all or any part of the records maintained by the board of review under this part or a summary of them, including information relating to the volume cap for each year and any amounts available for allocation under this part;
- (7) make rules for the allocation of volume cap under this part; and
- (8) charge reasonable fees for the performance of duties prescribed by this part, including application, filing, and processing fees.

Renumbered and Amended by Chapter 182, 2018 General Session

35A-8-2105 Allocation of volume cap.

- (1)
 - (a) Subject to Subsection (1)(b), the volume cap for each year shall be distributed by the board of review to the allotment accounts as described in Section 35A-8-2106.
 - (b) The board of review may distribute up to 50% of each increase in the volume cap for use in development that occurs in quality growth areas, depending upon the board's analysis of the relative need for additional volume cap between development in quality growth areas and the allotment accounts under Section 35A-8-2106.
- (2) To obtain an allocation of the volume cap, issuing authorities shall submit to the board of review an application containing information required by the procedures and processes of the board of review.
- (3)
 - (a) The board of review shall establish criteria for making allocations of volume cap that are consistent with the purposes of the code and this part.
 - (b) In making an allocation of volume cap the board of review shall consider the following:
 - (i) the principal amount of the bonds proposed to be issued;
 - (ii) the nature and the location of the project or the type of program;
 - (iii) the likelihood that the bonds will be sold and the timeframe of bond issuance;
 - (iv) whether the project or program could obtain adequate financing without an allocation of volume cap;
 - (v) the degree to which an allocation of volume cap is required for the project or program to proceed or continue;
 - (vi) the social, health, economic, and educational effects of the project or program on the local community and state as a whole;
 - (vii) the anticipated economic development created or retained within the local community and the state as a whole;
 - (viii) the anticipated number of jobs, both temporary and permanent, created or retained within the local community and the state as a whole; and
 - (ix) if the project is a residential rental project, the degree to which the residential rental project:
 - (A) targets lower income populations; and
 - (B) is accessible housing.
- (4) The board of review shall provide evidence of an allocation of volume cap by issuing a certificate in accordance with Section 35A-8-2107.
- (5)

- (a) Subject to Subsection (5)(c), from January 1 to June 30 of each year, the board of review shall set aside at least 50% of the Small Issue Bond Account that may only be allocated to manufacturing projects.
- (b) Subject to Subsection (5)(c), from July 1 to August 15 of each year, the board of review shall set aside at least 50% of the Pool Account that may only be allocated to manufacturing projects.
- (c) The board of review is not required to set aside any unused volume cap under Subsection 35A-8-2106(2)(c) to satisfy the requirements of Subsection (5)(a) or (b).

Amended by Chapter 68, 2022 General Session
Amended by Chapter 406, 2022 General Session

35A-8-2106 Allotment accounts.

- (1) There are created the following allotment accounts:
 - (a) the Single Family Housing Account, for which eligible issuing authorities are those authorized under the code and state statute to issue qualified mortgage bonds under Section 143 of the code;
 - (b) the Student Loan Account, for which eligible issuing authorities are those authorized under the code and state statute to issue qualified student loan bonds under Section 144(b) of the code;
 - (c) the Small Issue Bond Account, for which eligible issuing authorities are those authorized under the code and state statute to issue:
 - (i) qualified small issue bonds under Section 144(a) of the code;
 - (ii) qualified exempt facility bonds for qualified residential rental projects under Section 142(d) of the code; or
 - (iii) qualified redevelopment bonds under Section 144(c) of the code;
 - (d) the Exempt Facilities Account, for which eligible issuing authorities are those authorized under the code and state statute to issue any bonds requiring an allocation of volume cap other than for purposes described in Subsection (1)(a), (b), or (c);
 - (e) the Pool Account, for which eligible issuing authorities are those authorized under the code and state statute to issue any bonds requiring an allocation of volume cap; and
 - (f) the Carryforward Account, for which eligible issuing authorities are those with projects or programs qualifying under Section 146(f) of the code.
- (2)
 - (a) The volume cap shall be distributed to the allotment accounts on January 1 of each year on the following basis:
 - (i) 42% to the Single Family Housing Account;
 - (ii) 33% to the Student Loan Account;
 - (iii) 1% to the Exempt Facilities Account; and
 - (iv) 24% to the Small Issue Bond Account.
 - (b) From July 1 to September 30 of each year, the board of review may transfer any unallocated volume cap from the Exempt Facilities Account or the Small Issue Bond Account to the Pool Account.
 - (c) Upon written notification by the issuing authorities eligible for volume cap allocation from the Single Family Housing Account or the Student Loan Account that all or a portion of volume cap distributed into that allotment account will not be used, the board of review may transfer the unused volume cap to any other allotment account.

- (d) From October 1 to the third Friday of December of each year, the board of review shall transfer all unallocated volume cap into the Pool Account.
- (e) On the third Saturday of December of each year, the board of review shall transfer uncollected volume cap, or allocated volume cap for which bonds have not been issued prior to the third Saturday of December, into the Carryforward Account.
- (f) If the authority to issue bonds designated in any allotment account is rescinded by amendment to the code, the board of review may transfer any unallocated volume cap from that allotment account to any other allotment account.

Amended by Chapter 406, 2022 General Session

35A-8-2107 Certificates of allocation.

- (1)
 - (a) After an allocation of volume cap for a project or program is approved by the board of review, the board of review shall issue a numbered certificate of allocation stating the amount of the allocation, the allotment account for which the allocation is being made, and the expiration date of the allocation.
 - (b) The certificates of allocation shall be mailed to the issuing authority within 10 working days of the date of approval.
 - (c) Bonds are not entitled to any allocation of the volume cap unless the issuing authority received a certificate of allocation with respect to the bonds.
 - (d)
 - (i) Certificates of allocation shall remain in effect for a period of 90 days from the date of approval.
 - (ii) If bonds for which a certificate has been approved are not issued within the 90-day period, the certificate of allocation is void and volume cap shall be returned to the applicable allotment account for reallocation by the board of review.
- (2)
 - (a) An issuing authority receiving an allocation of volume cap from the Carryforward Account shall receive a certificate of allocation similar to the certificates of allocation described in Subsection (1) from the board of review stating the amount of allocation from the Carryforward Account that has been allocated to the issuing authority and the expiration of the allocation.
 - (b)
 - (i) If in the judgment of the board of review an issuing authority or a person or entity responsible for a project or program receiving an allocation from the Carryforward Account does not proceed with diligence in providing for the issuance of the bonds with respect to the project or program, and because of the lack of diligence the volume cap cannot be used, the board of review may exclude from the board of review's consideration for a given period of time, determined by the board of review, an application of the issuing authority, person, or entity.
 - (ii) The board of review may, at any time, review and modify the board of review's decisions relating to the exclusion described in this Subsection (2)(b).

Renumbered and Amended by Chapter 182, 2018 General Session

35A-8-2108 Issuing authorities -- Limitations -- Duties.

- (1)

- (a) Notwithstanding any law to the contrary, an issuing authority issuing bonds without a certificate of allocation issued under Section 35A-8-2107, or an issuing authority issuing bonds after the expiration of a certificate of allocation, is not entitled to an allocation of the volume cap for those bonds.
 - (b) An issuing authority issuing bonds in excess of the amount set forth in the related certificate of allocation is not entitled to an allocation of the volume cap for the excess.
- (2) Each issuing authority shall:
- (a) advise the board of review, within 15 days after the issuance of bonds, of the principal amount of bonds issued under each certificate of allocation by delivering to the board of review a copy of the Form 8038 that was delivered or shall be delivered to the Internal Revenue Service in connection with the bonds, or, if no Form 8038 is required to be delivered to the Internal Revenue Service, a completed copy of a Form 8038 prepared for the board of review with respect to the bonds; and
 - (b) if all or a stated portion of the bonds for which a certificate of allocation was received will not be issued, advise the board of review in writing, within 15 days of the earlier of:
 - (i) the final decision not to issue all or a stated portion of the bonds; or
 - (ii) the expiration of the certificate of allocation.
- (3) Failure by an issuing authority to notify the board of review under Subsection (2), including failure to timely deliver a Form 8038, may, in the sole discretion of the board of review, result in the board of review denying further consideration of applications from the issuing authority.

Renumbered and Amended by Chapter 182, 2018 General Session

35A-8-2109 Procedures -- Adjudicative proceedings.

The board of review shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in the board of review's adjudicative proceedings.

Renumbered and Amended by Chapter 182, 2018 General Session

35A-8-2110 Duties of the department.

- (1) The department is recognized as an issuing authority as defined in Section 35A-8-2102, entitled to issue bonds from the Small Issue Bond Account created in Subsection 35A-8-2106(1)(c) as a part of the state's private activity bond volume cap authorized by the Internal Revenue Code and computed under Section 146, Internal Revenue Code.
- (2) To promote and encourage the issuance of bonds from the Small Issue Bond Account for manufacturing projects, the department may:
 - (a) develop campaigns and materials that inform qualified small manufacturing businesses about the existence of the program and the application process;
 - (b) assist small businesses in applying for and qualifying for these bonds; and
 - (c) develop strategies to lower the cost to small businesses of applying for and qualifying for these bonds, including making arrangements with financial advisors, underwriters, bond counsel, and other professionals involved in the issuance process to provide services at a reduced rate when the department can provide such service providers with a high volume of applicants or issues.

Renumbered and Amended by Chapter 182, 2018 General Session

Part 22

Commission on Housing Affordability

35A-8-2201 Definitions.

As used in this part:

- (1) "Commission" means the Commission on Housing Affordability created in Section 35A-8-2202.
- (2) "Housing affordability" means the ability of a household to occupy a housing unit paying no more than 30% of the household's income for gross housing costs, including utilities.
- (3) "Moderate income housing unit" means a housing unit where a household whose income is no more than 80% of the area median income is able to occupy the housing unit paying no more than 30% of the household's income for gross housing costs, including utilities.
- (4) "Replacement unit" means a moderate income housing unit that:
 - (a) is comparable in quality to a permanently vacated or destroyed moderate income housing unit;
 - (b) meets state and local health and housing codes;
 - (c) is comparable to the permanently vacated or destroyed moderate income housing unit in number of bedrooms and square footage; and
 - (d) is located, to the extent practicable, in the same political subdivision as the permanently vacated or destroyed moderate income housing unit.

Amended by Chapter 268, 2020 General Session

35A-8-2202 Commission on Housing Affordability.

- (1) There is created within the department the Commission on Housing Affordability.
- (2) The commission shall consist of 21 members as follows:
 - (a) one senator appointed by the president of the Senate;
 - (b) two representatives appointed by the speaker of the House of Representatives;
 - (c) the executive director of the department or the executive director's designee;
 - (d) the director of the division;
 - (e) the executive director of the Governor's Office of Economic Opportunity or the executive director's designee;
 - (f) the president of the Utah Transit Authority or the president's designee;
 - (g) the chair of the board of trustees of the Utah Housing Corporation or the chair's designee;
 - (h) the state homelessness coordinator appointed under Section 63J-4-202 or the state homelessness coordinator's designee; and
 - (i) 12 members appointed by the governor as follows:
 - (i) one individual representing the land development community with experience and expertise in affordable, subsidized multi-family development, recommended by the Utah Homebuilders Association;
 - (ii) one individual representing the real estate industry, recommended by the Utah Association of Realtors;
 - (iii) one individual representing the banking industry, recommended by the Utah Bankers Association;
 - (iv) one individual representing public housing authorities, recommended by the director of the division;
 - (v) two individuals representing municipal government, recommended by the Utah League of Cities and Towns;

- (vi) one individual representing redevelopment agencies and community reinvestment agencies, recommended by the Utah Redevelopment Association;
 - (vii) two individuals representing county government, recommended by the Utah Association of Counties, where:
 - (A) one of the individuals is from a county of the first class; and
 - (B) one of the individuals is from a county of the third, fourth, fifth, or sixth class;
 - (viii) one individual representing a nonprofit organization that addresses issues related to housing affordability;
 - (ix) one individual with expertise on housing affordability issues in rural communities; and
 - (x) one individual representing the Salt Lake Chamber, recommended by the Salt Lake Chamber.
- (3)
- (a) When a vacancy occurs in a position appointed by the governor under Subsection (2)(i), the governor shall appoint a person to fill the vacancy.
 - (b) Members appointed under Subsection (2)(i) may be removed by the governor for cause.
 - (c) A member appointed under Subsection (2)(i) shall be removed from the commission and replaced by an appointee of the governor if the member is absent for three consecutive meetings of the commission without being excused by a cochair of the commission.
 - (d) A member serves until the member's successor is appointed.
- (4)
- (a) The commission shall select two members to serve as cochairs, one of whom shall be a legislator.
 - (b) Subject to the other provisions of this Subsection (4), the cochairs are responsible for the call and conduct of meetings.
 - (c) The cochairs shall call and hold meetings of the commission at least four times each year.
 - (d) One or more additional meetings may be called upon request by a majority of the commission's members.
- (5)
- (a) A majority of the members of the commission constitutes a quorum.
 - (b) The action of a majority of a quorum constitutes the action of the commission.
- (6)
- (a) A member of the commission described in Subsections (2)(c) through (i) may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (i) Section 63A-3-106;
 - (ii) Section 63A-3-107; and
 - (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
 - (b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.
- (7) The division shall provide staff support to the commission.

Amended by Chapter 118, 2022 General Session

35A-8-2203 Duties of the commission.

- (1) The commission shall:
 - (a) serve as a subcommittee of the Unified Economic Opportunity Commission and assist the Unified Economic Opportunity Commission in performing the Unified Economic Opportunity Commission's duties under Section 63N-1a-202;

- (b) increase public and government awareness and understanding of the housing affordability needs of the state and how those needs may be most effectively and efficiently met, through empirical study and investigation;
 - (c) identify and recommend implementation of specific strategies, policies, procedures, and programs to address the housing affordability needs of the state;
 - (d) facilitate the communication and coordination of public and private entities that are involved in developing, financing, providing, advocating for, and administering affordable housing in the state;
 - (e) study, evaluate, and report on the status and effectiveness of policies, procedures, and programs that address housing affordability in the state;
 - (f) study and evaluate the policies, procedures, and programs implemented by other states that address housing affordability;
 - (g) provide a forum for public comment on issues related to housing affordability;
 - (h) provide recommendations to the Unified Economic Opportunity Commission and the Legislature on strategies, policies, procedures, and programs to address the housing affordability needs of the state; and
 - (i) on or before December 31, 2022, approve the methodology developed by the division under Subsection 35A-8-803(1)(a)(ix).
- (2) To accomplish its duties, the commission may:
- (a) request and receive from a state or local government agency or institution summary information relating to housing affordability, including:
 - (i) reports;
 - (ii) audits;
 - (iii) projections; and
 - (iv) statistics; and
 - (b) appoint one or more advisory groups to advise and assist the commission.
- (3)
- (a) A member of an advisory group described in Subsection (2)(b):
 - (i) shall be appointed by the commission;
 - (ii) may be:
 - (A) a member of the commission; or
 - (B) an individual from the private or public sector; and
 - (iii) notwithstanding Section 35A-8-2202, may not receive reimbursement or pay for any work done in relation to the advisory group.
 - (b) An advisory group described in Subsection (2)(b) shall report to the commission on the progress of the advisory group.

Amended by Chapter 118, 2022 General Session

Amended by Chapter 406, 2022 General Session

35A-8-2204 Annual report.

- (1) The commission shall annually prepare a report for inclusion in the department's annual written report described in Section 35A-1-109.
- (2) The report described in Subsection (1) shall:
 - (a) describe how the commission fulfilled its statutory duties during the year;
 - (b) provide recommendations on how the state should act to address issues relating to housing affordability;

- (c) in consultation with affected political subdivisions, provide recommendations on how the state and other stakeholders should act to address the loss of moderate income housing units in the state, including the moderate income housing units permanently vacated or destroyed as identified in the report from the Department of Transportation described in Section 72-1-215; and
- (d) in consultation with affected political subdivisions, provide recommendations on how the state and other stakeholders can support and encourage the new construction or rehabilitation of replacement units.

Amended by Chapter 268, 2020 General Session

Part 24 Miscellaneous

35A-8-2401 Pass-through funding agreements -- Accounting for expenditures of a housing organization.

- (1) As used in this section:
 - (a) "Housing organization" means an entity that:
 - (i) manages a portfolio of investments;
 - (ii) is dedicated to the preservation, enhancement, improvement, and rehabilitation of affordable housing through property investment; and
 - (iii) is controlled by a registered nonprofit.
 - (b) "Pass-through funding" means state money appropriated by the Legislature to the department with the intent that the department grant or otherwise disburse the state money to a third party.
 - (c) "Rural" means the same as that term is defined in Section 35A-8-501.
- (2)
 - (a) This section applies to funds appropriated by the Legislature to the department for pass-through to a housing organization.
 - (b) The department shall ensure that pass-through funding granted or distributed before May 1, 2024 to a housing organization is subject to an agreement as described in this section, either through amending existing agreements or canceling existing agreements and issuing new agreements.
- (3)
 - (a) The department shall create agreements governing the use of pass-through funding as described in this section.
 - (b) Before a housing organization may accept pass-through funding pursuant to this section, the entity shall enter into an agreement with the department governing the use of pass-through funding.
- (4) An agreement for pass-through funding shall require, at a minimum:
 - (a) the housing organization match pass-through funding with private funding at no less than a 70% private, 30% state split;
 - (b) all pass-through funding be used by the housing organization to invest in housing units that are rented at rates affordable to households with an annual income at or below 80% of the area median income for a family within the county in which the housing is located;

- (c) that 50% of pass-through funding be used by the housing organization to invest in housing units that are rented at rates affordable to households with an annual income at or below 50% of the area median income for a family within the county in which the housing is located;
- (d) that at least 30% of pass-through funding be used by the housing organization to invest in housing units that are located in a rural county;
- (e) that any property purchased with pass-through funding be subject to a deed restriction for a minimum of 40 years to ensure the property remains a rental property affordable to households as described in Subsection (4)(b);
- (f) that returns on investment generated by pass-through funding shall be reinvested by the housing organization the same as if the returns on investment are pass-through funding; and
- (g) that the housing organization shall provide the division with the following information at the end of each fiscal year:
 - (i) the housing organization's annual audit, including:
 - (A) a third-party independent auditor's findings on the housing organization's compliance with this section and the terms of the housing organization's agreement for pass-through funding; and
 - (B) the audited financial statements for a legal entity used by the housing organization to carry out activities authorized by this section;
 - (ii) allocation of pass-through funds by county and housing type;
 - (iii) progress and status of funded projects; and
 - (iv) impact of pass-through funds on the availability of affordable housing across the state and by region.
- (5) The department shall include in the annual written report described in Section 35A-1-109 a report accounting for the expenditures authorized by a housing organization pursuant to an agreement with the department.

Amended by Chapter 413, 2024 General Session