

## **Title 63H. Independent State Entities**

### **Chapter 1 Military Installation Development Authority Act**

#### **Part 1 General Provisions**

##### **63H-1-101 Title.**

This chapter is known as the "Military Installation Development Authority Act."

Enacted by Chapter 23, 2007 General Session

##### **63H-1-102 Definitions.**

As used in this chapter:

- (1) "Authority" means the Military Installation Development Authority, created under Section 63H-1-201.
- (2) "Base taxable value" means:
  - (a) for military land or other land that was exempt from a property tax at the time that a project area was created that included the military land or other land, a taxable value of zero; or
  - (b) for private property that is included in a project area, the taxable value of the property within any portion of the project area, as designated by board resolution, from which the property tax allocation will be collected, as shown upon the assessment roll last equalized:
    - (i) before the year in which the authority creates the project area; or
    - (ii) before the year in which the project area plan is amended, for property added to a project area by an amendment to a project area plan.
- (3) "Board" means the governing body of the authority created under Section 63H-1-301.
- (4)
  - (a) "Dedicated tax collections" means the property tax that remains after the authority is paid the property tax allocation the authority is entitled to receive under Subsection 63H-1-501(1), for a property tax levied by:
    - (i) a county, including a district the county has established under Subsection 17-34-3(2) to levy a property tax under Title 17, Chapter 34, Municipal-Type Services to Unincorporated Areas; or
    - (ii) an included municipality.
  - (b) "Dedicated tax collections" does not include a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602.
- (5) "Develop" means to engage in development.
- (6)
  - (a) "Development" means an activity occurring:
    - (i) on land within a project area that is owned or operated by the military, the authority, another public entity, or a private entity; or
    - (ii) on military land associated with a project area.
  - (b) "Development" includes the demolition, construction, reconstruction, modification, expansion, maintenance, operation, or improvement of a building, facility, utility, landscape, parking lot, park, trail, or recreational amenity.
- (7) "Development project" means a project to develop land within a project area.

- (8) "Elected member" means a member of the authority board who:
- (a) is a mayor or member of a legislative body appointed under Subsection 63H-1-302(2)(b); or
  - (b)
    - (i) is appointed to the authority board under Subsection 63H-1-302(2)(a) or (3); and
    - (ii) concurrently serves in an elected state, county, or municipal office.
- (9) "Included municipality" means a municipality, some or all of which is included within a project area.
- (10)
- (a) "Military" means a branch of the armed forces of the United States, including the Utah National Guard.
  - (b) "Military" includes, in relation to property, property that is occupied by the military and is owned by the government of the United States, the authority, or the state.
- (11) "Military Installation Development Authority accommodations tax" or "MIDA accommodations tax" means the tax imposed under Section 63H-1-205.
- (12) "Military Installation Development Authority energy tax" or "MIDA energy tax" means the tax levied under Section 63H-1-204.
- (13)
- (a) "Military land" means land or a facility, including leased land or a leased facility, that is part of or affiliated with a base, camp, post, station, yard, center, or installation under the jurisdiction of the United States Department of Defense, the United States Department of Veterans Affairs, or the Utah National Guard.
  - (b) "Military land" includes land that is:
    - (i) owned or leased by the authority; and
    - (ii) held or used for the benefit of the military.
- (14) "Municipal energy tax" means a municipal energy sales and use tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act.
- (15) "Municipal services revenue" means revenue that the authority:
- (a) collects from the authority's:
    - (i) levy of a municipal energy tax;
    - (ii) levy of a MIDA energy tax;
    - (iii) levy of a telecommunications tax;
    - (iv) imposition of a transient room tax; and
    - (v) imposition of a resort communities tax;
  - (b) receives under Subsection 59-12-205(2)(a)(ii)(B); and
  - (c) receives as dedicated tax collections.
- (16) "Municipal tax" means a municipal energy tax, MIDA energy tax, MIDA accommodations tax, telecommunications tax, transient room tax, or resort communities tax.
- (17) "Project area" means the land, including military land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.
- (18) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area that includes:
- (a) the base taxable value of property in the project area;
  - (b) the projected property tax allocation expected to be generated within the project area;
  - (c) the amount of the property tax allocation expected to be shared with other taxing entities;
  - (d) the amount of the property tax allocation expected to be used to implement the project area plan, including the estimated amount of the property tax allocation to be used for land

- acquisition, public improvements, infrastructure improvements, and loans, grants, or other incentives to private and public entities;
  - (e) the property tax allocation expected to be used to cover the cost of administering the project area plan;
  - (f) if the property tax allocation is to be collected at different times or from different portions of the project area, or both:
    - (i)
      - (A) the tax identification numbers of the parcels from which the property tax allocation will be collected; or
      - (B) a legal description of the portion of the project area from which the property tax allocation will be collected; and
    - (ii) an estimate of when other portions of the project area will become subject to collection of the property tax allocation; and
  - (g) for property that the authority owns or leases and expects to sell or sublease, the expected total cost of the property to the authority and the expected selling price or lease payments.
- (19) "Project area plan" means a written plan that, after the plan's effective date, guides and controls the development within a project area.
- (20)
- (a) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4, Privilege Tax, except as described in Subsection (20)(b), and each levy on an ad valorem basis on tangible or intangible personal or real property.
  - (b) "Property tax" does not include a privilege tax on the taxable value:
    - (i) attributable to a portion of a facility leased to the military for a calendar year when:
      - (A) a lessee of military land has constructed a facility on the military land that is part of a project area;
      - (B) the lessee leases space in the facility to the military for the entire calendar year; and
      - (C) the lease rate paid by the military for the space is \$1 or less for the entire calendar year, not including any common charges that are reimbursements for actual expenses; or
    - (ii) of the following property owned by the authority, regardless of whether the authority enters into a long-term operating agreement with a privately owned entity under which the privately owned entity agrees to operate the property:
      - (A) a hotel;
      - (B) a hotel condominium unit in a condominium project, as defined in Section 57-8-3; and
      - (C) a commercial condominium unit in a condominium project, as defined in Section 57-8-3.
- (21) "Property tax allocation" means the difference between:
- (a) the amount of property tax revenues generated each tax year by all taxing entities from the area within a project area designated in the project area plan as the area from which the property tax allocation is to be collected, using the current assessed value of the property; and
  - (b) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property.
- (22) "Public entity" means:
- (a) the state, including each department or agency of the state; or
  - (b) a political subdivision of the state, including the authority or a county, city, town, school district, special district, special service district, or interlocal cooperation entity.
- (23)
- (a) " Public infrastructure and improvements" means infrastructure, improvements, facilities, or buildings that:

- (i) benefit the public, the authority, the military, or military-related entities; and
- (ii)
  - (A) are publicly owned by the military, the authority, a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, or another public entity;
  - (B) are owned by a utility; or
  - (C) are publicly maintained or operated by the military, the authority, or another public entity.
- (b) "Public infrastructure and improvements" also means infrastructure, improvements, facilities, or buildings that:
  - (i) are privately owned; and
  - (ii) provide a substantial benefit, as determined by the board, to the development and operation of a project area.
- (c) "Public infrastructure and improvements" includes:
  - (i) facilities, lines, or systems that harness geothermal energy or provide water, chilled water, steam, sewer, storm drainage, natural gas, electricity, or telecommunications;
  - (ii) streets, roads, curb, gutter, sidewalk, walkways, tunnels, solid waste facilities, parking facilities, public transportation facilities, and parks, trails, and other recreational facilities;
  - (iii) snowmaking equipment and related improvements that can also be used for water storage or fire suppression purposes; and
  - (iv) a building and related improvements for occupancy by the public, the authority, the military, or military-related entities.
- (24) "Remaining municipal services revenue" means municipal services revenue that the authority has not:
  - (a) spent during the authority's fiscal year for municipal services as provided in Subsection 63H-1-503(1); or
  - (b) redirected to use in accordance with Subsection 63H-1-502(3).
- (25) "Resort communities tax" means a sales and use tax imposed under Section 59-12-401.
- (26) "Taxable value" means the value of property as shown on the last equalized assessment roll.
- (27) "Taxing entity":
  - (a) means a public entity that levies a tax on property within a project area; and
  - (b) does not include a public infrastructure district that the authority creates under Title 17D, Chapter 4, Public Infrastructure District Act.
- (28) "Telecommunications tax" means a telecommunications license tax under Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.
- (29) "Transient room tax" means a tax under Section 59-12-352.

**63H-1-103 Severability.**

If a court determines that any provision of this chapter, or the application of any provision of this chapter, is invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

Enacted by Chapter 282, 2020 General Session

**63H-1-104 Loan approval committee -- Approval of infrastructure loans.**

- (1) As used in this section:
  - (a) "Borrower" means the same as that term is defined in Section 63A-3-401.5.
  - (b) "Infrastructure loan" means the same as that term is defined in Section 63A-3-401.5.
  - (c) "Infrastructure project" means the same as that term is defined in Section 63A-3-401.5.

- (d) "Military development fund" means the same as that term is defined in Section 63A-3-401.5.
- (e) "Loan approval committee" means a committee consisting of:
  - (i) the board member who is appointed by the governor under Subsection 63H-1-302(2)(a);
  - (ii) the board member who is appointed by the governor under Subsection 63H-1-302(2)(c);
  - (iii) the board members who are appointed by the president of the Senate and the speaker of the House of Representatives under Subsection 63H-1-302(3); and
  - (iv) a voting or nonvoting board member designated by the board.
- (2) The loan approval committee may approve an infrastructure loan from the military development fund to a borrower for an infrastructure project undertaken by the borrower.
- (3) The loan approval committee shall establish the terms of an infrastructure loan in accordance with Section 63A-3-404.
- (4) The loan approval committee may establish policies and guidelines with respect to prioritizing requests for infrastructure loans and approving infrastructure loans.
- (5) Beginning May 5, 2021, the loan approval committee shall assume jurisdiction from the State Infrastructure Bank Fund relating to the terms of a loan under Subsection 63B-27-101(3)(a)(i).
- (6) Within 60 days after the execution of an infrastructure loan, the loan approval committee shall report the infrastructure loan, including the loan amount, terms, interest rate, and security, to:
  - (a) the Executive Appropriations Committee;
  - (b) the State Finance Review Commission created in Section 63C-25-201.
- (7)
  - (a) A meeting of the loan approval committee does not constitute a meeting of the board, even if a quorum of the board is present at a loan approval committee meeting.
  - (b) A quorum of board members present at a meeting of the loan approval committee may not conduct board business at the loan approval committee meeting.
- (8)
  - (a) Salaries and expenses of committee members who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.
  - (b) A committee member who is not a legislator may not receive compensation or benefits for the member's service on the committee, but may receive per diem and reimbursement for travel expenses incurred as a committee member at the rates established by the Division of Finance under:
    - (i) Sections 63A-3-106 and 63A-3-107; and
    - (ii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 207, 2022 General Session

Amended by Chapter 463, 2022 General Session

## **Part 2**

### **Authority Creation and Powers**

#### **63H-1-201 Creation of military installation development authority -- Status and powers of authority -- Limitation.**

- (1) There is created a military installation development authority.
- (2) The authority is:

- (a) an independent, nonprofit, separate body corporate and politic, with perpetual succession and statewide jurisdiction, whose purpose is to facilitate the development of land within a project area or on military land associated with a project area;
  - (b) a political subdivision of the state; and
  - (c) a public corporation, as defined in Section 63E-1-102.
- (3) The authority may:
- (a) facilitate the development of land within one or more project areas, including the ongoing operation of facilities within a project area, or development of military land associated with a project area;
  - (b) sue and be sued;
  - (c) enter into contracts generally;
  - (d) by itself or through a subsidiary, buy, obtain an option upon, or otherwise acquire any interest in real or personal property:
    - (i) in a project area; or
    - (ii) outside a project area for public infrastructure and improvements, if the board considers the purchase, option, or other interest acquisition to be necessary for fulfilling the authority's development objectives;
  - (e) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property;
  - (f) enter into a lease agreement on real or personal property, either as lessee or lessor:
    - (i) in a project area; or
    - (ii) outside a project area, if the board considers the lease to be necessary for fulfilling the authority's development objectives;
  - (g) provide for the development of land within a project area or military land associated with the project area under one or more contracts;
  - (h) exercise powers and perform functions under a contract, as authorized in the contract;
  - (i) exercise exclusive police power within a project area to the same extent as though the authority were a municipality, including the collection of regulatory fees;
  - (j) receive the property tax allocation and other taxes and fees as provided in this chapter;
  - (k) accept financial or other assistance from any public or private source for the authority's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;
  - (l) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;
  - (m) issue bonds to finance the undertaking of any development objectives of the authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;
  - (n) hire employees, including contract employees;
  - (o) transact other business and exercise all other powers provided for in this chapter;
  - (p) enter into a development agreement with a developer of land within a project area;
  - (q) enter into an agreement with a political subdivision of the state under which the political subdivision provides one or more municipal services within a project area;
  - (r) enter into an agreement with a private contractor to provide one or more municipal services within a project area;
  - (s) provide for or finance an energy efficiency upgrade, a clean energy system, or electric vehicle charging infrastructure as defined in Section 11-42a-102, in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act;

- (t) exercise powers and perform functions that the authority is authorized by statute to exercise or perform;
  - (u) enter into an agreement with the federal government or an agency of the federal government under which the federal government or agency:
    - (i) provides law enforcement services only to military land within a project area; and
    - (ii) may enter into a mutual aid or other cooperative agreement with a law enforcement agency of the state or a political subdivision of the state;
  - (v) by itself or through a subsidiary, act as a facilitator under Title 63N, Chapter 13, Part 3, Facilitating Public-private Partnerships Act, to provide expertise and knowledge to another governmental entity interested in public-private partnerships;
  - (w) enter into an intergovernmental support agreement under Title 10, U.S.C. Sec. 2679 with the military to provide support services to the military in accordance with the agreement;
  - (x) act as a developer, or assist a developer chosen by the military, to develop military land as part of an enhanced use lease under Title 10, U.S.C. Sec. 2667; and
  - (y) develop public infrastructure and improvements.
- (4) The authority may not itself provide law enforcement service or fire protection service within a project area but may enter into an agreement for one or both of those services, as provided in Subsection (3)(q).
- (5) The authority shall provide support to a subsidiary that enters into an agreement under Subsection (3)(v) that the authority determines necessary for the subsidiary to fulfill the requirements of the agreement.
- (6) Because providing procurement, utility, construction, and other services for use by a military installation, including providing public infrastructure and improvements for use or occupancy by the military, are core functions of the authority and are typically provided by a local government for the local government's own needs or use, these services provided by the authority for the military under this chapter are considered to be for the authority's own needs and use.
- (7) A public infrastructure district created by the authority under Title 17D, Chapter 4, Public Infrastructure District Act, is a subsidiary of the authority.

Amended by Chapter 53, 2024 General Session

**63H-1-202 Applicability of other law.**

- (1) As used in this section:
- (a) "Subsidiary" means an authority subsidiary that is a public body as defined in Section 52-4-103.
  - (b) "Subsidiary board" means the governing body of a subsidiary.
- (2) The authority or land within a project area is not subject to:
- (a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act;
  - (b) Title 17, Chapter 27a, County Land Use, Development, and Management Act;
  - (c) ordinances or regulations of a county or municipality, including those relating to land use, health, business license, or franchise; or
  - (d) the jurisdiction of a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.
- (3) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.
- (4)

- (a) The definitions in Section 57-8-3 apply to this Subsection (4).
- (b) Notwithstanding the provisions of Title 57, Chapter 8, Condominium Ownership Act, or any other provision of law:
  - (i) if the military is the owner of land in a project area on which a condominium project is constructed, the military is not required to sign, execute, or record a declaration of a condominium project; and
  - (ii) if a condominium unit in a project area is owned by the military or owned by the authority and leased to the military for \$1 or less per calendar year, not including any common charges that are reimbursements for actual expenses:
    - (A) the condominium unit is not subject to any liens under Title 57, Chapter 8, Condominium Ownership Act;
    - (B) condominium unit owners within the same building or commercial condominium project may agree on any method of allocation and payment of common area expenses, regardless of the size or par value of each unit; and
    - (C) the condominium project may not be dissolved without the consent of all the condominium unit owners.
- (5) Notwithstanding any other provision, when a law requires the consent of a local government, the authority is the consenting entity for a project area.
- (6)
  - (a) A department, division, or other agency of the state and a political subdivision of the state shall cooperate with the authority to the fullest extent possible to provide whatever support, information, or other assistance the authority requests that is reasonably necessary to help the authority fulfill the authority's duties and responsibilities under this chapter.
  - (b) Subsection (6)(a) does not apply to a political subdivision that does not have any of a project area located within the boundary of the political subdivision.
- (7)
  - (a) The authority and a subsidiary are subject to Title 52, Chapter 4, Open and Public Meetings Act, except that:
    - (i) notwithstanding Section 52-4-104, the timing and nature of training to authority board members or subsidiary board members on the requirements of Title 52, Chapter 4, Open and Public Meetings Act, may be determined by:
      - (A) the board chair, for the authority board; or
      - (B) the subsidiary board chair, for a subsidiary board;
    - (ii) authority staff may adopt a rule governing the use of electronic meetings under Section 52-4-207, if, under Subsection 63H-1-301(3), the board delegates to authority staff the power to adopt the rule; and
    - (iii) for an electronic meeting of the authority board or subsidiary board that otherwise complies with Section 52-4-207, the authority board or subsidiary board, respectively:
      - (A) is not required to establish an anchor location; and
      - (B) may convene and conduct the meeting without the determination otherwise required under Subsection 52-4-207(5)(a)(i).
  - (b) The authority and subsidiaries are not required to physically post notice notwithstanding any other provision of law.
- (8) The authority and a subsidiary are subject to Title 63G, Chapter 2, Government Records Access and Management Act, except that:
  - (a) notwithstanding Section 63G-2-701:
    - (i) the authority may establish an appeals board consisting of at least three members;
    - (ii) an appeals board established under Subsection (8)(a)(i) shall include:



- (A) one of the authority board members appointed by the governor;
  - (B) the authority board member appointed by the president of the Senate; and
  - (C) the authority board member appointed by the speaker of the House of Representatives;
- and
- (iii) an appeal of a decision of an appeals board is to district court, as provided in Section 63G-2-404, except that the State Records Committee is not a party; and
  - (b) a record created or retained by the authority or a subsidiary acting in the role of a facilitator under Subsection 63H-1-201(3)(v) is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.
- (9) The authority or a subsidiary acting in the role of a facilitator under Subsection 63H-1-201(3)(v) is not prohibited from receiving a benefit from a public-private partnership that results from the facilitator's work as a facilitator.
- (10)
- (a)
    - (i) A subsidiary created as a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, may, subject to limitations of Title 17D, Chapter 4, Public Infrastructure District Act, levy a property tax for the operations and maintenance of the public infrastructure district's financed infrastructure and related improvements, subject to a maximum rate of .015.
    - (ii) A levy under Subsection (10)(a)(i) may be separate from a public infrastructure district property tax levy for a bond.
  - (b) If a subsidiary created as a public infrastructure district issues a bond:
    - (i) the subsidiary may:
      - (A) delay the effective date of the property tax levy for the bond until after the period of capitalized interest payments; and
      - (B) covenant with bondholders not to reduce or impair the property tax levy; and
    - (ii) notwithstanding a provision to the contrary in Title 17D, Chapter 4, Public Infrastructure District Act, the tax rate for the property tax levy for the bond may not exceed a rate that generates more revenue than required to pay the annual debt service of the bond plus administrative costs, subject to a maximum of .02.
  - (c)
    - (i) A subsidiary created as a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, may create tax areas, as defined in Section 59-2-102, within the public infrastructure district and apply a different property tax rate to each tax area, subject to the maximum rate limitations described in Subsections (10)(a)(i) and (10)(b)(ii).
    - (ii) If a subsidiary created by a public infrastructure district issues bonds, the subsidiary may issue bonds secured by property taxes from:
      - (A) the entire public infrastructure district; or
      - (B) one or more tax areas within the public infrastructure district.
- (11)
- (a) Terms defined in Section 57-11-2 apply to this Subsection (11).
  - (b) Title 57, Chapter 11, Utah Uniform Land Sales Practices Act, does not apply to an offer or disposition of an interest in land if the interest in land lies within the boundaries of the project area and the authority:
    - (i)
      - (A) has a development review committee using at least one professional planner;

- (B) enacts standards and guidelines that require approval of planning, land use, and plats, including the approval of plans for streets, culinary water, sanitary sewer, and flood control; and
  - (C) will have the improvements described in Subsection (11)(b)(i)(B) plus telecommunications and electricity; and
  - (ii) if at the time of the offer or disposition, the subdivider furnishes satisfactory assurance of completion of the improvements described in Subsection (11)(b)(i)(C).
- (12)
- (a) As used in this Subsection (12), "officer" means the same as an officer within the meaning of the Utah Constitution, Article IV, Section 10.
  - (b) An official act of an officer may not be invalidated for the reason that the officer failed to take the oath of office.

**63H-1-203 Levy of a municipal tax -- Direct tax payment to MIDA.**

- (1) A levy of a municipal energy tax, MIDA energy tax, telecommunications tax, transient room tax, resort communities tax, or additional resort communities sales tax, including an increase in the applicable tax rate, requires the affirmative vote of:
  - (a) the authority board; and
  - (b) a majority of all elected members of the authority board.
- (2) If the authority board levies a municipal energy tax, a consumer who acquires taxable energy shall pay the tax directly to the authority on a monthly basis if the consumer's energy supplier is not required under federal law to collect the tax in the manner described in Section 10-1-307.

**63H-1-204 MIDA energy tax.**

- (1) By ordinance, an authority board may levy a MIDA energy tax, within a project area, on an energy supplier as defined in Section 10-1-303.
- (2) The maximum rate of the MIDA energy tax is 6% of the delivered value as defined in Section 10-1-303, except that delivered value does not include the amount of a tax paid under this section.
- (3)
  - (a) An energy supplier may recover an amount equal to the MIDA energy tax from its customers, if the energy supplier includes the amount as a separate billing line item.
  - (b) The MIDA energy tax levied under this section is in addition to the rate approved by the Public Service Commission and charged to the customer.
- (4) If the authority has levied a municipal energy tax in the project area, the MIDA energy tax paid by a customer is reduced by any municipal energy tax paid by that customer on the same delivered value.
- (5)
  - (a) The MIDA energy tax is payable by the energy supplier to MIDA on a monthly basis as described by the ordinance levying the tax.
  - (b) The ordinance shall allow the energy supplier to retain 1% of the tax remittance each month to offset the energy supplier's costs of collecting and remitting the tax.

Enacted by Chapter 362, 2013 General Session

**63H-1-205 MIDA accommodations tax.**

- (1) As used in this section:
  - (a) "Accommodations and services" means an accommodation or service described in Subsection 59-12-103(1)(i).
  - (b) "Accommodations and services" does not include amounts paid or charged that are not part of a rental room rate.
- (2) By ordinance, the authority board may impose a MIDA accommodations tax on a provider for amounts paid or charged for accommodations and services, if the place of accommodation is located within a project area and on:
  - (a) authority-owned or other government-owned property ;
  - (b) privately owned property on which the authority owns a condominium unit that is part of the place of accommodation; or
  - (c) privately owned property on which the authority board finds that a provider is providing a significant long-term benefit, including lodging but not including a benefit that is commonly provided, to members of the military at the property.
- (3) The maximum rate of the MIDA accommodations tax is 15% of the amounts paid to or charged by the provider for accommodations and services.
- (4) A provider may recover an amount equal to the MIDA accommodations tax from customers, if the provider includes the amount as a separate billing line item.
- (5) If the authority imposes the tax described in this section, neither the authority nor a public entity may impose, on the amounts paid or charged for accommodations and services, any other tax described in:
  - (a) Title 59, Chapter 12, Sales and Use Tax Act; or
  - (b) Title 59, Chapter 28, State Transient Room Tax Act.
- (6) Except as provided in Subsection (7) or (8), the tax imposed under this section shall be administered, collected, and enforced in accordance with:
  - (a) the same procedures used to administer, collect, and enforce the tax under:
    - (i) Title 59, Chapter 12, Part 1, Tax Collection; or
    - (ii) Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act; and
  - (b) Title 59, Chapter 1, General Taxation Policies.
- (7) The location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.
- (8)
  - (a) A tax under this section is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through (5).
  - (b) The exemptions described in Sections 59-12-104, 59-12-104.1, and 59-12-104.6 do not apply to a tax imposed under this section.
- (9) The State Tax Commission shall:
  - (a) except as provided in Subsection (9)(b), distribute the revenue collected from the tax to the authority; and
  - (b) retain and deposit an administrative charge in accordance with Section 59-1-306 from revenue the commission collects from a tax under this section.
- (10)
  - (a) If the authority imposes, repeals, or changes the rate of tax under this section, the implementation, repeal, or change shall take effect:
    - (i) on the first day of a calendar quarter; and
    - (ii) after a 90-day period beginning on the date the State Tax Commission receives the notice described in Subsection (10)(b) from the authority.
  - (b) The notice required in Subsection (10)(a)(ii) shall state:

- (i) that the authority will impose, repeal, or change the rate of a tax under this section;
  - (ii) the effective date of the implementation, repeal, or change of the tax; and
  - (iii) the rate of the tax.
- (11) In addition to the uses permitted under Section 63H-1-502, the authority may allocate revenue from the MIDA accommodations tax to a county in which a place of accommodation that is subject to the MIDA accommodations tax is located, if:
- (a) the county had a transient room tax described in Section 59-12-301 in effect at the time the authority board imposed a MIDA accommodations tax by ordinance; and
  - (b) the revenue replaces revenue that the county received from a county transient room tax described in Section 59-12-301 for the county's general operations and administrative expenses.

**63H-1-206 Property exchange -- Freeway interchange construction.**

- (1)
- (a) If the authority receives title to real property from the Secretary of the United States Air Force, pursuant to Section 2831 of the National Defense Authorization Act for Fiscal Year 2020, for construction of an interchange by the Department of Transportation, the authority shall exchange the real property intended for the interchange with the Department of Transportation for any unused remainder of real property that the Department of Transportation does not need for the freeway after the interchange is complete.
  - (b) The authority or a subsidiary of the authority is the designee of the state, within the meaning of Section 2831(a) of the National Defense Authorization Act for Fiscal Year 2020.
- (2) An exchange described in Subsection (1) shall occur at no cost to the authority or the Department of Transportation, regardless of the value of the real property.
- (3)
- (a) The authority shall demolish the structures on and, as required by the Secretary of the United States Air Force and the Utah Department of Environmental Quality, environmentally mitigate the real property that the authority exchanges with the Department of Transportation under this section.
  - (b) The Department of Transportation shall remove unneeded freeway improvements from the real property that the Department of Transportation exchanges with the authority under this section.
- (4) Upon the authority's receipt of title to real property under this section, the real property automatically becomes included within the project area adjacent to the real property.

Amended by Chapter 282, 2020 General Session

**63H-1-207 Authority jurisdiction over Department of Transportation property.**

- (1) As used in this section:
- (a) "Highway land" means land that is:
    - (i) owned by the Department of Transportation, created in Section 72-1-201; and
    - (ii)
      - (A) as of April 1, 2024, an area of no more than 35 total acres, adjacent to State Route 40, and within a military recreation facility project area.
      - (B) is within two miles of a state park.
  - (b) "Highway land" does not include:
    - (i) a class A state road that is in active use; and

- (ii) a shoulder or appurtenance that is contiguous to a class A state road that is in active use.
- (2) Notwithstanding any other provision of statute, the authority has jurisdiction and control over highway land, subject to Subsection (3).
- (3)
  - (a) The executive director of the Department of Transportation may, in consultation with the authority, transfer, sell, trade, or lease the highway land or any interest in the highway land as provided in Section 72-5-111 and any applicable rules and regulations.
  - (b)
    - (i) Notwithstanding Section 72-5-111, if the Department of Transportation sells highway land or any interest in highway land to the authority, the Department of Transportation shall transfer the proceeds of the sale to the authority.
    - (ii) The authority shall use any proceeds of a sale described in Subsection (3)(b)(i) for transportation or transit purposes within the project area where the sale of the highway land or interest in the highway land occurred.

**63H-1-208 Former rail line.**

- (1) A former rail line automatically becomes included within a project area located at an air force base if:
  - (a) the authority acquires title to the former rail line as provided in Subsection (2); and
  - (b) a portion of the former rail line is adjacent to the project area.
- (2) Notwithstanding Section 72-5-117, the Department of Transportation may transfer to the authority, at no cost to the authority, title to that portion of a former rail line adjacent to a project area located at an air force base that the Department of Transportation does not need for construction of a freeway interchange.
- (3) The authority may:
  - (a) develop the former rail line; or
  - (b) transfer title of all or part of the former rail line, at no cost, to another governmental entity or nonprofit entity who agrees to receive the title.
- (4) A governmental entity or nonprofit entity that agrees to receive title to all or part of a former rail line under Subsection (3)(b) assumes responsibility for the maintenance of and any construction that remains to be completed on the former rail line.

Amended by Chapter 12, 2023 General Session

**63H-1-209 Immunity from contaminated property claims.**

- (1) As used in this section:
  - (a) "Agency" means the same as that term is defined in Section 57-25-102.
  - (b) "Claim" means an action, suit, claim, demand, allegation, or cause of action, whether grounded in law or equity, made in a court of competent jurisdiction, mediation, arbitration, before a regulatory body, or in another dispute resolution forum.
  - (c) "Contaminated property" means real property in a project area that is:
    - (i) affected by historical contamination; and
    - (ii) owned by a governmental entity.
  - (d) "Environmental covenant" means the same as that term is defined in Section 57-25-102.
  - (e) "Governmental entity" means the same as that term is defined in Section 63G-7-102.
  - (f) "Hazardous materials" means the same as that term is defined in Section 19-6-302.
  - (g) "Hazardous substances" means the same as that term is defined in Section 19-6-302.

- (h) "Historical contamination" means the placement, disposal, or release of hazardous materials or hazardous substances onto, into, under, or in a way that affects real property, and which placement, disposal, or release of hazardous materials or hazardous substances occurred prior to ownership of the real property by a governmental entity.
  - (i) "Ownership," "own," "owned," "owns," or "acquires" means to have an ownership or other established interest in real property, including holding title to, leasing, operating on, or maintaining real property.
- (2) In addition to the liability protection provided by Subsections 63G-7-201(4)(l) and 63G-7-201(4)(s)(iii) and the other provisions of Title 63G, Chapter 7, Governmental Immunity Act of Utah, the protections of Subsection (3) apply to a governmental entity that owns or approves the use of contaminated property.
- (3)
- (a) Ownership of contaminated property by a governmental entity, or a governmental entity's approval of the use of contaminated property does not subject a governmental entity, its agents, or its officers or employees to any liability for or related to a claim arising from, proximately caused by, or related to historical contamination.
  - (b) No governmental entity waives immunity from suit or liability by this section.
  - (c) A claim made against a governmental entity, its agents, or its officers or employees in violation of this section shall subject the claimant to the payment of double the attorney fees and costs incurred by the governmental entity related to the claim.
  - (d) This Subsection (3) does not limit or alter:
    - (i) claims against or the liability of the party that placed, disposed of, or released the hazardous materials or hazardous substances onto, into, under, or in a way that affects contaminated property; or
    - (ii) a workers' compensation claim made by an employee of an entity that works on contaminated property or conducts work related to contaminated property.
- (4) If a governmental entity that owns contaminated property develops the contaminated property for public or governmental purposes, including recreation, government offices, parking, or related uses, then Subsection (3) extends to that governmental entity, regardless of whether the governmental entity had a role in approving use of the contaminated property, if the governmental entity:
- (a) obtains a certificate of completion from the Utah Department of Environmental Quality following participation in the voluntary cleanup program, as set forth in Section 19-8-111; or
  - (b) complies with the terms of an environmental covenant signed by an agency and properly recorded in the county records against the property.

Enacted by Chapter 12, 2023 General Session

### **Part 3 Authority Board**

#### **63H-1-301 Authority board -- Delegation of power.**

- (1) The authority shall be governed by a board which shall manage and conduct the business and affairs of the authority and shall determine all questions of authority policy.
- (2) All powers of the authority are exercised through the board.

- (3) The board may by resolution delegate powers to authority staff, including the power to adopt a rule governing the use of electronic meetings under Section 52-4-207.

Amended by Chapter 274, 2022 General Session

**63H-1-302 Number of board members -- Appointment.**

- (1) The authority's board shall consist of seven members.
- (2) The governor shall appoint five members of the board as follows:
  - (a) one member shall be appointed who is interested in supporting military efforts in the state;
  - (b) subject to Subsection (4)(d), three members shall be appointed, each of whom is a mayor or member of the legislative body of a municipality or county that is adjacent or in close proximity to a project area or proposed project area; and
  - (c) one member shall be appointed from the executive branch or a state agency that is involved with military issues.
- (3) The president of the Senate and the speaker of the House of Representatives shall each appoint one board member.
- (4)
  - (a) Each vacancy shall be filled in the same manner under this section as the appointment of the member whose vacancy is being filled.
  - (b) Each person appointed to fill a vacancy shall serve the remaining unexpired term of the member whose vacancy the person is filling.
  - (c) If a mayor or member of a legislative body appointed under Subsection (2)(b) leaves office as mayor or a member of the legislative body, a vacancy on the board occurs and the governor shall appoint another mayor or member of a legislative body, as provided in Subsection (2)(b), to fill the vacancy.
  - (d) If there are more than three project areas where development is actively occurring located in different counties or municipalities, the governor:
    - (i) shall appoint at least one member under Subsection (2)(b) who represents a municipality or county that is adjacent to or in close proximity to the highest-value project area, as measured by the planned taxable value of the land within the project area to be developed by the private sector;
    - (ii) shall appoint at least one member under Subsection (2)(b) who represents a municipality or county that is adjacent to or in close proximity to the second-highest-value project area, as measured by the planned taxable value of the land within the project area to be developed by the private sector; and
    - (iii) may appoint one member under Subsection (2)(b) who represents a municipality or county that is adjacent to or in close proximity to a project area where development is actively occurring for which there is no representation on the board.
  - (e) A member of the board appointed by the governor, president of the Senate, or speaker of the House of Representatives serves at the pleasure of and may be removed and replaced at any time, with or without cause, by the governor, president of the Senate, or speaker of the House of Representatives, respectively.
- (5) The authority may:
  - (a) appoint nonvoting members of the board, including a member from a municipality or county that is adjacent to or in close proximity to a project area for which there is no representation on the board under Subsection (2)(b); and
  - (b) set terms for nonvoting members appointed under Subsection (5)(a).

Amended by Chapter 498, 2019 General Session

**63H-1-303 Term of board members.**

- (1) The term of board members is four years, except that the term of the members of the initial board shall be staggered so that the term of approximately half the board members expires every two years.
- (2) Each board member shall serve until a successor is duly appointed and qualified.

Amended by Chapter 92, 2009 General Session

**63H-1-304 Annual conflict of interest disclosure statement -- Exception -- Penalties.**

- (1) Except as provided in Subsection (7), a board member shall, no sooner than January 1 and no later than January 31 of each year during which the board member holds office on the authority's board:
  - (a) prepare a written conflict of interest disclosure statement that contains a response to each item of information described in Subsection 20A-11-1604(6); and
  - (b) submit the written disclosure statement to the administrator or clerk of the authority's board.
- (2)
  - (a) No later than 10 business days after the date on which the board member submits the written disclosure statement described in Subsection (1) to the administrator or clerk of the authority's board, the administrator or clerk shall:
    - (i) post an electronic copy of the written disclosure statement on the authority's website; and
    - (ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (2)(a)(i).
  - (b) The administrator or clerk shall ensure that the board member's written disclosure statement remains posted on the authority's website until the board member leaves office.
- (3) The administrator or clerk of the authority's board shall take the action described in Subsection (4) if:
  - (a) a board member fails to timely file the written disclosure statement described in Subsection (1); or
  - (b) a submitted written disclosure statement does not comply with the requirements of Subsection 20A-11-1604(6).
- (4) If a circumstance described in Subsection (3) occurs, the administrator or clerk of the authority's board shall, within five days after the day on which the administrator or clerk determines that a violation occurred, notify the board member of the violation and direct the board member to submit an amended written disclosure statement correcting the problem.
- (5)
  - (a) It is unlawful for a board member to fail to submit or amend a written disclosure statement within seven days after the day on which the board member receives the notice described in Subsection (4).
  - (b) A board member who violates Subsection (5)(a) is guilty of a class B misdemeanor.
  - (c) The administrator or clerk of the authority's board shall report a violation of Subsection (5)(a) to the attorney general.
  - (d) In addition to the criminal penalty described in Subsection (5)(b), the administrator or clerk of the authority's board shall impose a civil fine of \$100 against a board member who violates Subsection (5)(a).
- (6) The administrator or clerk of the authority's board shall deposit a fine collected under this section into the board's account to pay for the costs of administering this section.



- (7) For an individual who is appointed as a board member under Subsection 63H-1-302(2)(b):
  - (a) Subsection (1) does not apply; and
  - (b) the administrator or clerk of the authority's board shall, instead:
    - (i) post an electronic link on the authority's website to the written disclosure statement the board member made in the board member's capacity as an elected officer of:
      - (A) a county, under Section 17-16a-13; or
      - (B) a municipality, under Section 10-3-1313; and
    - (ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (7)(b)(i).

Enacted by Chapter 443, 2024 General Session

## **Part 4**

### **Project Area Plan and Budget**

#### **63H-1-401 Preparation of project area plan -- Required contents of project area plan.**

- (1)
  - (a) The authority board shall adopt a project area plan as provided in this part.
  - (b) In order to adopt a project area plan, the authority board shall:
    - (i) prepare a draft project area plan;
    - (ii) give notice as required under Subsection 63H-1-402(2);
    - (iii) hold at least one public meeting, as required under Subsection 63H-1-402(1); and
    - (iv) after holding at least one public meeting and subject to Subsection (1)(c), adopt the draft project area plan as the project area plan.
  - (c) Before adopting a draft project area plan as the project area plan, the authority board may make modifications to the draft project area plan that the board considers necessary or appropriate.
  - (d)
    - (i) A lease or development agreement that the authority enters before the creation of a project area shall provide that the board is not required to create a project area.
    - (ii) An authority may not be required to pay any amount or incur any loss or penalty for the board's failure to create a project area.
- (2) Each project area plan and draft project area plan shall contain:
  - (a) a legal description of the boundary of the project area that is the subject of the project area plan;
  - (b) the authority's purposes and intent with respect to the project area; and
  - (c) the board's findings and determination that:
    - (i) there is a need to effectuate a public purpose;
    - (ii) there is a public benefit to the proposed development project;
    - (iii) it is economically sound and feasible to adopt and carry out the project area plan; and
    - (iv) carrying out the project area plan will promote the public peace, health, safety, and welfare of the community in which the project area is located.
- (3)
  - (a) A project area described in a project area plan:
    - (i) shall include military land; and
    - (ii) may include public or private land, whether or not it is contiguous to military land, if:

- (A) the legislative body of the county in which the public or private land is located, if the public land or private land is located in an unincorporated county, passes a resolution consenting to the inclusion of the land in the project area;
- (B) the legislative body of an included municipality passes a resolution consenting to the inclusion of the land in the project area; and
- (C) the owner of the public or private land consents to the inclusion of the land in the project area.

(b)

- (i) Consent provided under Subsection (3)(a)(ii)(A), (B), or (C) is irrevocable.
- (ii) The authority may rely on a consent provided under Subsection (3)(a)(ii)(A), (B), or (C) for long-term planning, contractual commitments, and issuing bonds or other indebtedness.

Amended by Chapter 463, 2022 General Session

**63H-1-402 Public meeting to consider and discuss draft project area plan -- Notice -- Adoption of plan.**

- (1) The authority board shall hold at least one public meeting to consider and discuss the draft project area plan.
- (2) At least 10 days before holding a public meeting under Subsection (1), the authority board shall give notice of the public meeting to:
  - (a) a taxing entity; and
  - (b) a municipality that is located within one-half mile of the proposed project area.
- (3) Following consideration and discussion of the project area plan, the board may adopt the draft project area plan as the project area plan.

Amended by Chapter 9, 2010 General Session

**63H-1-403 Notice of project area plan adoption -- Effective date of plan -- Contesting the formation of the plan.**

- (1) Upon the effective date of a project area plan, the board shall provide notice as provided in Subsection (1)(b) by publishing or causing to be published legal notice:
  - (a) in a newspaper of general circulation within or near the project area; and
  - (b) as required by Section 45-1-101.
- (2)
  - (a) Each notice under Subsection (1) shall include:
    - (i) the board resolution adopting the project area plan or a summary of the resolution;
    - (ii) a statement that the project area plan is available for general public inspection as provided in Subsection (4); and
    - (iii) an email address to which a person may send an email requesting an electronic copy of the project area plan.
  - (b) The statement required under Subsection (2)(a)(ii) may be included in the board resolution or summary described in Subsection (2)(a)(i).
- (3) The project area plan becomes effective on the date designated in the board resolution adopting the project area plan.
- (4) The authority shall make the adopted project area plan available to the general public by:
  - (a) providing an electronic link to the project area plan on the authority's website, if the authority has a website; and

- (b) sending an email free of charge with an electronic copy of the project area plan to any person who submits an email to the authority at an email address identified in the notice under Subsection (2).
- (5) Within 10 days after the effective date of a project area plan that establishes a project area, or after an amendment to a project area plan is adopted under which the boundary of a project area is modified, the authority shall send notice of the establishment or modification of the project area and an accurate map or plat of the project area to:
  - (a) the State Tax Commission;
  - (b) the Utah Geospatial Resource Center created in Section 63A-16-505; and
  - (c) the assessor and recorder of each county where the project area is located.
- (6)
  - (a) A legal action or other challenge to a project area plan or a project area described in a project area plan is barred unless brought within 30 days after the effective date of the project area plan.
  - (b) For a project area created before December 1, 2018, a legal action or other challenge is barred.
  - (c) For a project area created after December 1, 2018, and before May 14, 2019, a legal action or other challenge is barred after July 1, 2019.

Amended by Chapter 162, 2021 General Session

Amended by Chapter 345, 2021 General Session

Amended by Chapter 414, 2021 General Session

**63H-1-403.5 Amendment to a project area plan.**

- (1) The authority may amend a project area plan by following the same procedure under this part as applies to the adoption of a project area plan.
- (2) The provisions of this part apply to the authority's adoption of an amendment to a project area plan to the same extent as they apply to the adoption of a project area plan.
- (3) An amendment to a project area plan does not affect the base taxable value determination for property already within the project area before the amendment.

Amended by Chapter 282, 2020 General Session

**63H-1-405 Project area budget.**

- (1) Before the authority may receive or use the property tax allocation, the authority board shall prepare and adopt a project area budget.
- (2) The authority board may amend an adopted project area budget as and when the authority board considers it appropriate.
- (3) If the authority adopts a budget under Part 7, Authority Budget and Reports, that also meets the requirements of this part, the authority need not separately adopt a budget under this part.

Amended by Chapter 282, 2020 General Session

**Part 5  
Authority Funds**

**63H-1-501 Authority receipt and use of property tax allocation -- Contractual annual payment -- Distribution of property tax allocation.**

- (1)
  - (a) The authority may:
    - (i) subject to Subsection (1)(b):
      - (A) receive up to 75% of the property tax allocation for up to 25 years, as provided in this part; and
      - (B) after the time period described in Subsection (1)(a)(i)(A) expires, receive up to 75% of the property tax allocation for up to 15 years, if the board determines the additional years will produce significant benefit; and
    - (ii) use the property tax allocation before, during, and after the period described in Subsection (1)(a)(i).
  - (b) With respect to a parcel located within a project area, the 25-year period described in Subsection (1)(a)(i)(A) begins on the day on which the authority receives the first property tax allocation from that parcel.
- (2)
  - (a) For purposes of Subsection (1)(b), the authority may designate an improved portion of a parcel in a project area as a separate parcel.
  - (b) An authority designation of an improved portion of a parcel as a separate parcel under Subsection (2)(a) is for purposes of Subsection (1)(b) only and does not constitute a subdivision for any other purpose.
  - (c) A county recorder shall assign a separate tax identification number to the improved portion of a parcel designated by the authority as a separate parcel under Subsection (2)(a).
- (3) Improvements on a parcel within a project area become subject to property tax on January 1 immediately following the day on which the authority or an entity designated by the authority issues a certificate of occupancy with respect to those improvements.
- (4)
  - (a) If the authority or an entity designated by the authority has not issued a certificate of occupancy for a private parcel within a project area, the private parcel owner shall make an annual payment to the authority:
    - (i) that is equal to 1.2% of the taxable value of the parcel above the base taxable value of the parcel; and
    - (ii) until the parcel becomes subject to the property tax described in Subsection (3).
  - (b) The authority may use the revenue from payments described in Subsection (4)(a) for any purpose described in Subsection 63H-1-502(1).
  - (c) The authority may submit for recording to the office of the recorder of the county in which a private parcel described in Subsection (4)(a) is located:
    - (i) a copy of an agreement between the authority and the private parcel owner that memorializes the payment obligation under Subsection (4)(a); or
    - (ii) a notice that describes the payment obligation under Subsection (4)(a).
  - (d) An owner of a private parcel described in Subsection (4)(a) may not be required to make a payment that exceeds or is in addition to the payment described in Subsection (4)(a)(i) until the private parcel becomes subject to the property tax described in Subsection (3).
  - (e) Upon the transfer of title of a private parcel described in Subsection (4)(a), the amount of the annual payment required under Subsection (4)(a) shall be:
    - (i) treated the same as a property tax; and
    - (ii) prorated between the previous owner and the owner who acquires title from the previous owner.

- (f) A person who fails to pay or is delinquent in paying an annual payment described in Subsection (4)(a) is subject to the same penalties and interest as the failure or delinquent payment of a property tax in accordance with Title 59, Chapter 2, Property Tax Act.
- (g) A county treasurer shall:
  - (i) include the annual payment described in Subsection (4)(a) on a county property tax notice in accordance with Section 59-2-1317; and
  - (ii) collect the annual payment as part of the property tax collection.
- (h) A county auditor shall include the annual payment described in Subsection (4)(a) on the notice of property valuation in accordance with Subsection 59-2-919.1(1).
- (5) Each county that collects property tax on property within a project area shall pay and distribute to the authority the property tax allocation and dedicated tax collections that the authority is entitled to collect under this title, in the manner and at the time provided in Section 59-2-1365.
- (6)
  - (a) The board shall determine by resolution when the entire project area or an individual parcel within a project area is subject to property tax allocation.
  - (b) The board shall amend the project area budget to reflect whether a parcel within a project area is subject to property tax allocation.
- (7) The following property owned by the authority is not subject to any property tax under Title 59, Chapter 2, Property Tax Act, or any privilege tax under Title 59, Chapter 4, Privilege Tax, regardless of whether the authority enters into a long-term operating agreement with a privately owned entity under which the privately owned entity agrees to operate the property:
  - (a) a hotel;
  - (b) a hotel condominium unit in a condominium project, as defined in Section 57-8-3; and
  - (c) a commercial condominium unit in a condominium project, as defined in Section 57-8-3.

**63H-1-502 Allowable uses of property tax allocation and other funds.**

- (1) Other than municipal services revenue, the authority may use the property tax allocation and other funds available to the authority:
  - (a) for any purpose authorized under this chapter;
  - (b) for administrative, overhead, legal, and other operating expenses of the authority;
  - (c) to pay for, including financing or refinancing, all or part of the development of land within the project area from which the property tax allocation or other funds were collected, including assisting the ongoing operation of a development or facility within the project area;
  - (d) to pay the cost of the installation and construction of public infrastructure and improvements within the project area from which the property tax allocation funds were collected;
  - (e) to pay the cost of the installation and construction of public infrastructure and improvements, including a passenger ropeway, as defined in Section 72-11-102, outside the project area if:
    - (i)
      - (A) the authority board determines by resolution that the infrastructure and improvements are of benefit to the project area; and
      - (B) for a passenger ropeway, at least one end of the ropeway is located within the project area; or
    - (ii)
      - (A) the funds expended are appropriated by the Legislature; and
      - (B) the authority is directed to expend the funds, and the project or purpose is directed, by the Legislature;
  - (f) to pay the principal and interest on bonds issued by the authority;

- (g) to pay for a morale, welfare, and recreation program ,or other program that benefits the military or veterans, affiliated with the project area from which the funds were collected; or
- (h) to pay for the promotion of:
  - (i) a development within the project area; or
  - (ii) amenities outside of the project area that are associated with a development within the project area.
- (2) The authority may use revenue generated from the authority's operation of public infrastructure and improvements to:
  - (a) operate and maintain the public infrastructure and improvements; and
  - (b) pay for authority operating expenses, including administrative, overhead, and legal expenses.
- (3) For purposes of Subsection (1), the authority may use:
  - (a) tax revenue received under Subsection 59-12-205(2)(a)(ii)(B);
  - (b) resort communities tax revenue;
  - (c) MIDA energy tax revenue, received under Section 63H-1-204, which does not have to be used in the project area where the revenue was generated;
  - (d) MIDA accommodations tax revenue, received under Section 63H-1-205;
  - (e) transient room tax revenue generated from hotels located on authority-owned or other public-entity-owned property;
  - (f) municipal energy tax or telecommunications tax revenue generated from hotels that are subject to the MIDA accommodations tax under Section 63H-1-205; or
  - (g) payments received under Subsection 63H-1-501(4).
- (4) The determination of the authority board under Subsection (1)(e) regarding benefit to the project area is final.
- (5)
  - (a) Subject to Subsection (5)(b), the authority may enter into an agreement with a school district to pay the school district a certain portion of the property tax allocation the authority receives from the project area if:
    - (i)
      - (A) the school district levies a property tax in a project area established prior to 2023;
      - (B) the school district has a building authority that issued a lease revenue bond to construct a new school in 2022;
      - (C) the school district approved a property tax increase of its capital levy in 2023; and
      - (D) the authority and a county that entered into an interlocal cooperation agreement that allocated the property tax allocation agree to amend the interlocal agreement to allow for the payment; or
    - (ii) a school district levies a property tax for a general obligation bond authorized by an election after January 1, 2024.
  - (b) If the board approves an agreement described in Subsection (5)(a), the board shall provide that any annual tax payment is subordinate to any authority bonded indebtedness that pledged any property tax allocation from the project area as security for the bonds.

**63H-1-503 Use of municipal services revenue.**

- (1) The authority may use municipal services revenue to pay for:
  - (a) administrative, overhead, legal, and other operating expenses of the authority; and
  - (b) municipal services within the project area from which the revenue was collected.
- (2) Unless otherwise provided by agreement between the authority and each county and municipality levying a property tax on property within a project area, the authority shall distribute

any remaining municipal services revenue equally among all counties and municipalities that levy a property tax on property within a project area.

Enacted by Chapter 92, 2009 General Session

**63H-1-504 Authority funds nonlapsing.**

All funds received by the authority are nonlapsing.

Enacted by Chapter 9, 2010 General Session

**Part 6  
Authority Bonds**

**63H-1-601 Resolution authorizing issuance of authority bonds -- Characteristics of bonds.**

- (1) The authority may not issue bonds under this part unless the authority board first:
  - (a) adopts a parameters resolution that sets forth:
    - (i) the maximum:
      - (A) amount of the bonds;
      - (B) term; and
      - (C) interest rate; and
    - (ii) the expected security for the bonds; and
  - (b) submits the parameters resolution for review and recommendation to the State Finance Review Commission created in Section 63C-25-201.
- (2)
  - (a) As provided in the authority resolution authorizing the issuance of bonds under this part or the trust indenture under which the bonds are issued, bonds issued under this part may be issued in one or more series and may be sold at public or private sale and in the manner provided in the resolution or indenture.
  - (b) Bonds issued under this part shall bear the date, be payable at the time, bear interest at the rate, be in the denomination and in the form, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be subject to the terms of redemption or tender, with or without premium, be payable in the medium of payment and at the place, and have other characteristics as provided in the authority resolution authorizing their issuance or the trust indenture under which they are issued.
- (3) Upon the board's adoption of a resolution providing for the issuance of bonds, the board may provide for the publication of the resolution:
  - (a) in a newspaper having general circulation in the authority's boundaries; and
  - (b) as required in Section 45-1-101.
- (4) In lieu of publishing the entire resolution, the board may publish notice of bonds that contains the information described in Subsection 11-14-316(2).
- (5) For a period of 30 days after the publication, any person in interest may contest:
  - (a) the legality of the resolution or proceeding;
  - (b) any bonds that may be authorized by the resolution or proceeding; or
  - (c) any provisions made for the security and payment of the bonds.
- (6)

- (a) A person may contest the matters set forth in Subsection (5) by filing a verified written complaint, within 30 days of the publication under Subsection (5), in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.
- (b) A person may not contest the matters set forth in Subsection (5), or the regularity, formality, or legality of the resolution or proceeding, for any reason, after the 30-day period for contesting provided in Subsection (6)(a).
- (7) No later than 60 days after the closing day of any bonds, the authority shall report the bonds issuance, including the amount of the bonds, terms, interest rate, and security, to:
  - (a) the Executive Appropriations Committee; and
  - (b) the State Finance Review Commission created in Section 63C-25-201.

Amended by Chapter 158, 2024 General Session

**63H-1-602 Sources from which bonds may be made payable -- Authority powers regarding bonds.**

- (1) The principal and interest on bonds issued by the authority may be made payable from:
  - (a) the income and revenues of the projects financed with the proceeds of the bonds;
  - (b) the income and revenues of certain designated projects whether or not they were financed in whole or in part with the proceeds of the bonds;
  - (c) the income, proceeds, revenues, property, and funds the authority derives from or holds in connection with its undertaking and carrying out development of a project area;
  - (d) property tax allocation funds;
  - (e) authority revenues generally;
  - (f) a contribution, loan, grant, or other financial assistance from the federal government or a public entity in aid of the development of military land; or
  - (g) funds derived from any combination of the methods listed in Subsections (1)(a) through (f).
- (2) In connection with the issuance of authority bonds, the authority may:
  - (a) pledge all or any part of its gross or net rents, fees, or revenues to which its right then exists or may thereafter come into existence;
  - (b) encumber by mortgage, deed of trust, or otherwise all or any part of its real or personal property, then owned or thereafter acquired; and
  - (c) make the covenants and take the action that may be necessary, convenient, or desirable to secure its bonds, or, except as otherwise provided in this chapter, that will tend to make the bonds more marketable, even though such covenants or actions are not specifically enumerated in this chapter.

Amended by Chapter 377, 2015 General Session

**63H-1-603 Authority to purchase agency bonds.**

- (1) Any person, firm, corporation, association, political subdivision of the state, or other entity or public or private officer may purchase bonds issued by an authority under this part with funds owned or controlled by the purchaser.
- (2) Nothing in this section may be construed to relieve a purchaser of authority bonds of any duty to exercise reasonable care in selecting securities.

Enacted by Chapter 23, 2007 General Session



**63H-1-604 Those executing bonds not personally liable -- Limitation of obligations under bonds -- Negotiability.**

- (1) A member of the authority board or other person executing an authority bond is not liable personally on the bond.
- (2)
  - (a) A bond issued by the authority is not a general obligation or liability of the state or any of its political subdivisions and does not constitute a charge against their general credit or taxing powers.
  - (b) A bond issued by the authority is not payable out of any funds or properties other than those of the authority.
  - (c) The community, the state, and its political subdivisions may not be liable on a bond issued by the authority.
  - (d) A bond issued by the authority does not constitute indebtedness within the meaning of any constitutional or statutory debt limitation.
- (3) A bond issued by the authority under this part is fully negotiable.

Enacted by Chapter 23, 2007 General Session

**63H-1-605 Obligee rights -- Board may confer other rights.**

- (1) In addition to all other rights that are conferred on an obligee of a bond issued by the authority under this part and subject to contractual restrictions binding on the obligee, an obligee may:
  - (a) by mandamus, suit, action, or other proceeding, compel an authority and its board, officers, agents, or employees to perform every term, provision, and covenant contained in any contract of the authority with or for the benefit of the obligee, and require the authority to carry out the covenants and agreements of the authority and to fulfill all duties imposed on the authority by this part; and
  - (b) by suit, action, or proceeding in equity, enjoin any acts or things that may be unlawful or violate the rights of the obligee.
- (2)
  - (a) In a board resolution authorizing the issuance of bonds or in a trust indenture, mortgage, lease, or other contract, an authority board may confer upon an obligee holding or representing a specified amount in bonds, the rights described in Subsection (2)(b), to accrue upon the happening of an event or default prescribed in the resolution, indenture, mortgage, lease, or other contract, and to be exercised by suit, action, or proceeding in any court of competent jurisdiction.
  - (b)
    - (i) The rights that the board may confer under Subsection (2)(a) are the rights to:
      - (A) cause possession of all or part of a development project to be surrendered to an obligee;
      - (B) obtain the appointment of a receiver of all or part of an authority's development project and of the rents and profits from it; and
      - (C) require the authority and its board and employees to account as if the authority and the board and employees were the trustees of an express trust.
    - (ii) If a receiver is appointed through the exercise of a right granted under Subsection (2)(b)(i) (B), the receiver:
      - (A) may enter and take possession of the development project or any part of it, operate and maintain it, and collect and receive all fees, rents, revenues, or other charges arising from it after the receiver's appointment; and

(B) shall keep money collected as receiver for the authority in separate accounts and apply it pursuant to the authority obligations as the court directs.

Enacted by Chapter 23, 2007 General Session

**63H-1-606 Bonds exempt from taxes -- Authority may purchase its own bonds.**

- (1) A bond issued by the authority under this part is issued for an essential public and governmental purpose and is, together with interest on the bond and income from it, exempt from all state taxes except the corporate franchise tax.
- (2) The authority may purchase its own bonds at a price that its board determines.
- (3) Nothing in this section may be construed to limit the right of an obligee to pursue a remedy for the enforcement of a pledge or lien given under this part by the authority on its rents, fees, grants, properties, or revenues.

Enacted by Chapter 23, 2007 General Session

**Part 7**  
**Authority Budget and Reports**

**63H-1-701 Annual authority budget -- Fiscal year -- Public hearing required -- Auditor forms -- Requirement to file form.**

- (1) The authority shall prepare an annual budget of revenues and expenditures for the authority for each fiscal year.
- (2) The board shall adopt the annual authority budget before June 30.
- (3) The authority's fiscal year shall be the period from July 1 to the following June 30.
- (4)
  - (a) Before adopting an annual budget, the authority board shall hold a public hearing on the annual budget.
  - (b) The authority shall provide notice of the public hearing on the annual budget by publishing notice, as a class A notice under Section 63G-30-102, for at least one week immediately before the day of the public hearing.
  - (c) The authority shall make the annual budget available for public inspection at least three days before the date of the public hearing.
- (5) The state auditor shall prescribe the budget forms and the categories to be contained in each authority budget, including:
  - (a) revenues and expenditures for the budget year; and
  - (b) administrative costs, including legal fees, rent, supplies, and other materials, and salaries of authority personnel.
- (6)
  - (a) Within 30 days after adopting an annual budget, the authority board shall file a copy of the annual budget with the auditor of each county in which a project area of the authority is located, the State Tax Commission, the state auditor, the State Board of Education, and each taxing entity that levies a tax on property from which the authority collects property tax allocation.

- (b) The requirement of Subsection (6)(a) to file a copy of the annual budget with the state as a taxing entity is met if the authority files a copy with the State Tax Commission and the state auditor.

**63H-1-702 Amending the authority annual budget.**

- (1) The authority board may by resolution amend an annual authority budget.
- (2) An amendment of the annual authority budget that would increase the total expenditures may be made only after public hearing by notice published as required for initial adoption of the annual budget.
- (3) The authority may not make expenditures in excess of the total expenditures established in the annual budget as it is adopted or amended.

Enacted by Chapter 23, 2007 General Session

**63H-1-703 Authority report.**

- (1)
  - (a) On or before November 1 of each year, the authority shall prepare and file a report with the county auditor of each county in which a project area of the authority is located, the State Tax Commission, the State Board of Education, and each taxing entity that levies a tax on property from which the authority collects property tax allocation.
  - (b) The requirement of Subsection (1)(a) to file a copy of the report with the state as a taxing entity is met if the authority files a copy with the State Tax Commission.
- (2) Each report under Subsection (1) shall contain:
  - (a) an estimate of the property tax allocation to be paid to the authority for the calendar year ending December 31; and
  - (b) an estimate of the property tax allocation to be paid to the authority for the calendar year beginning the next January 1.

Amended by Chapter 414, 2021 General Session

**63H-1-704 Audit requirements.**

The authority shall comply with the audit requirements of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

Enacted by Chapter 23, 2007 General Session

**63H-1-705 Audit report.**

- (1) The authority shall, within 180 days after the end of the authority's fiscal year, file a copy of the audit report with the county auditor, the State Tax Commission, the State Board of Education, and each taxing entity that levies a tax on property from which the authority collects property tax allocation.
- (2) Each audit report under Subsection (1) shall include:
  - (a) the property tax allocation collected by the authority for each project area;
  - (b) the outstanding principal amount of bonds issued or other loans incurred to finance the costs associated with the authority's project areas; and
  - (c) the actual amount expended for:
    - (i) acquisition of property;

- (ii) site improvements or site preparation costs;
- (iii) installation of public utilities or other public improvements; and
- (iv) administrative costs of the authority.

Amended by Chapter 377, 2015 General Session

**63H-1-706 Authority chief financial officer is a public treasurer -- Certain authority funds are public funds.**

- (1) The authority's chief financial officer:
  - (a) is a public treasurer, as defined in Section 51-7-3; and
  - (b) shall invest the authority funds specified in Subsection (2) as provided in that subsection.
- (2) Notwithstanding Subsection 63E-2-110(2)(a), property tax allocation funds, municipal services revenue, and appropriations that the authority receives from the state:
  - (a) are public funds; and
  - (b) shall be invested as provided in Title 51, Chapter 7, State Money Management Act.

Amended by Chapter 377, 2015 General Session

**Part 8  
Authority Dissolution**

**63H-1-801 Dissolution of authority -- Restrictions -- Filing copy of ordinance -- Authority records -- Dissolution expenses.**

- (1) The authority may not be dissolved unless the authority has no outstanding bonded indebtedness, other unpaid loans, indebtedness, or advances, and no legally binding contractual obligations with persons or entities other than the state.
- (2) Upon the dissolution of the authority:
  - (a) the Governor's Office of Economic Opportunity shall publish a notice of dissolution:
    - (i) in a newspaper of general circulation in the county in which the dissolved authority is located; and
    - (ii) as required in Section 45-1-101; and
  - (b) all title to property owned by the authority vests in the state.
- (3) The books, documents, records, papers, and seal of each dissolved authority shall be deposited for safekeeping and reference with the state auditor.
- (4) The authority shall pay all expenses of the deactivation and dissolution.

Amended by Chapter 282, 2021 General Session

**Chapter 4  
Heber Valley Historic Railroad Authority**

**63H-4-101 Title.**

This chapter is known as the "Heber Valley Historic Railroad Authority."

Renumbered and Amended by Chapter 370, 2011 General Session

**63H-4-102 Creation -- Members -- Chair -- Powers -- Quorum -- Per diem and expenses -- Annual conflict of interest disclosure statement -- Exception -- Penalties.**

- (1) There is created an independent state agency and a body politic and corporate known as the "Heber Valley Historic Railroad Authority."
- (2) The authority is composed of eight members as follows:
  - (a) one member of the county legislative body of Wasatch County;
  - (b) the mayor of Heber City;
  - (c) the mayor of Midway;
  - (d) the executive director of the Department of Transportation or the executive director's designee;
  - (e) the director of the Division of State Parks, or the director's designee; and
  - (f) three public members appointed by the governor with the advice and consent of the Senate, being private citizens of the state, as follows:
    - (i) two people representing the tourism industry, one each from Wasatch and Utah counties; and
    - (ii) one person representing the public at large.
- (3) All members shall be residents of the state.
- (4)
  - (a) Except as required by Subsection (4)(b), the three public members are appointed for four-year terms beginning July 1, 2010.
  - (b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of authority members are staggered so that approximately half of the authority is appointed every two years.
- (5) Any of the three public members may be removed from office by the governor or for cause by an affirmative vote of any four members of the authority.
- (6) When a vacancy occurs in the membership for any reason, the replacement is appointed for the unexpired term by the governor with advice and consent of the Senate for the unexpired term.
- (7) Each public member shall hold office for the term of appointment and until a successor has been appointed and qualified.
- (8) A public member is eligible for reappointment, but may not serve more than two full consecutive terms.
- (9) The governor shall appoint the chair of the authority from among its members.
- (10) The members shall elect from among their number a vice chair and other officers they may determine.
- (11) The powers of the authority are vested in its members.
- (12)
  - (a) Four members constitute a quorum for transaction of authority business.
  - (b) An affirmative vote of at least four members is necessary for any action taken by the authority.
- (13) 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.

- (14) Except as provided in Subsection (20), a member shall, no sooner than January 1 and no later than January 31 of each year during which the member holds office on the authority:
- (a) prepare a written conflict of interest disclosure statement that contains a response to each item of information described in Subsection 20A-11-1604(6); and
  - (b) submit the written disclosure statement to the administrator or clerk of the authority.
- (15)
- (a) No later than 10 business days after the date on which the member submits the written disclosure statement described in Subsection (14) to the administrator or clerk of the authority, the administrator or clerk shall:
    - (i) post an electronic copy of the written disclosure statement on the authority's website; and
    - (ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (15)(a)(i).
  - (b) The administrator or clerk shall ensure that the member's written disclosure statement remains posted on the authority's website until the member leaves office.
- (16) The administrator or clerk of the authority shall take the action described in Subsection (17) if:
- (a) a member fails to timely file the written disclosure statement described in Subsection (14); or
  - (b) a submitted written disclosure statement does not comply with the requirements of Subsection 20A-11-1604(6).
- (17) If a circumstance described in Subsection (16) occurs, the administrator or clerk of the authority shall, within five days after the day on which the administrator or clerk determines that a violation occurred, notify the member of the violation and direct the member to submit an amended written disclosure statement correcting the problem.
- (18)
- (a) It is unlawful for a member to fail to submit or amend a written disclosure statement within seven days after the day on which the member receives the notice described in Subsection (17).
  - (b) A member who violates Subsection (18)(a) is guilty of a class B misdemeanor.
  - (c) The administrator or clerk of the authority shall report a violation of Subsection (18)(a) to the attorney general.
  - (d) In addition to the criminal penalty described in Subsection (18)(b), the administrator or clerk of the authority shall impose a civil fine of \$100 against a member who violates Subsection (18)(a).
- (19) The administrator or clerk of the authority shall deposit a fine collected under this section into the authority's account to pay for the costs of administering this section.
- (20) For an individual who is appointed to the authority under Subsection (2)(a), (b), or (c):
- (a) Subsection (14) does not apply; and
  - (b) the administrator or clerk of the authority shall, instead:
    - (i) post an electronic link on the authority's website to the written disclosure statement the member made in the member's capacity as an elected officer of:
      - (A) a county, under Section 17-16a-13; or
      - (B) a municipality, under Section 10-3-1313; and
    - (ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (20)(b)(i).

Amended by Chapter 443, 2024 General Session

**63H-4-103 Executive director -- Powers and duties.**

(1)

- (a) The members shall appoint an executive director who is an employee of the authority, but who is not a member of the authority.
  - (b) The executive director serves at the pleasure of the members and receives compensation as set by the members and approved by the governor.
- (2) The executive director shall:
- (a) administer, manage, and direct the affairs and activities of the authority in accordance with the policies, control, and direction of the members;
  - (b) approve all accounts for allowable expenses of the authority or of any of its employees and expenses incidental to the operation of the authority;
  - (c) attend the meetings of the authority;
  - (d) keep a record of the proceedings of the authority;
  - (e) maintain and be custodian of all books, documents, and papers filed with the authority; and
  - (f) perform other duties as directed by the members in carrying out the purposes of this chapter.

Renumbered and Amended by Chapter 370, 2011 General Session

**63H-4-104 Member or employee -- Disclosure of interest.**

- (1) A member or employee of the authority who has, will have, or later acquires an interest, direct or indirect, in a transaction with the authority shall immediately disclose the nature and extent of that interest in writing to the authority as soon as the member or employee has knowledge of the actual or prospective interest.
- (2) This disclosure shall be entered upon the minutes of the authority.
- (3) Upon this disclosure that member or employee may participate in any action by the authority authorizing the transaction.

Renumbered and Amended by Chapter 370, 2011 General Session

**63H-4-105 Officer or employee -- No forfeiture of office or employment.**

Notwithstanding the provisions of any other law, an officer or employee of this state does not forfeit an officer's or employee's office or employment by reason of acceptance of membership on the authority or service on it.

Renumbered and Amended by Chapter 370, 2011 General Session

**63H-4-106 Authority -- Powers.**

- (1) The authority shall operate and maintain a scenic and historic railroad in and around the Heber Valley.
- (2) The authority has perpetual succession as a body politic and corporate and may:
  - (a) adopt, amend, and repeal rules, policies, and procedures for the regulation of its affairs and the conduct of its business;
  - (b) sue and be sued in its own name;
  - (c) maintain an office at a place within this state it designates;
  - (d) adopt, amend, and repeal bylaws and rules, not inconsistent with this chapter, to carry into effect the powers and purposes of the authority and the conduct of its business;
  - (e) purchase, lease, sell, and otherwise dispose of property and rights-of-way;
  - (f) employ experts and other professionals it considers necessary;
  - (g) employ and retain independent legal counsel;

- (h) make and execute contracts and all other instruments necessary or convenient for the performance of its duties and the exercise of its duties under this chapter to operate and maintain a scenic railroad in and around the Heber Valley;
  - (i) procure insurance for liability and against any loss in connection with its property and other assets in amounts and from insurers it considers desirable;
  - (j) receive appropriations from the Legislature and receive other public money and accept aid or contributions from any source of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of this chapter, subject to the conditions upon which the grants and contributions are made, including gifts or grants from any department, agency, or instrumentality of the United States or of this state for any purpose consistent with this chapter;
  - (k) enter into agreements with any department, agency, or instrumentality of the United States or this state for the purpose of providing for the operation and maintenance of a scenic railway in and around the Heber Valley; and
  - (l) do any act necessary or convenient to the exercise of the powers granted by this chapter.
- (3)
- (a) All money received by the authority under Subsection (2)(j) and from any other source is for the exclusive use of the authority to operate, maintain, improve, and provide for a scenic and historic railway in and around the Heber Valley.
  - (b) The money received by the authority may not be used for any other purpose or by any other entity.

Renumbered and Amended by Chapter 370, 2011 General Session

**63H-4-107 Notes, bonds, other obligation -- Not debt liability -- Expenses payable from funds provided -- Agency without authority to incur liability on behalf of state.**

- (1)
- (a) An obligation or liability of the authority does not constitute a debt or liability of this state or of any of its political subdivisions nor does any obligation or liability constitute the loaning of credit of the state or of any of its political subdivisions nor may any obligation or liability of the authority be payable from funds other than those of the authority.
  - (b) All obligations of the authority shall contain a statement to the effect that the authority is obligated to pay them solely from the revenues or other funds of the authority and that this state or its political subdivisions are not obligated to pay them and that neither the faith and credit nor the taxing power of this state or any of its political subdivisions is pledged to the payment of them.
- (2) All expenses incurred in carrying out this part are payable solely from money of the authority provided under this chapter, and nothing in this chapter may be construed to authorize the authority to incur indebtedness or liability on behalf of or payable by this state or any of its political subdivisions.

Renumbered and Amended by Chapter 370, 2011 General Session

**63H-4-108 Relation to certain acts -- Participation in Risk Management Fund.**

- (1) The authority is exempt from:
- (a) Title 51, Chapter 5, Funds Consolidation Act;
  - (b) Title 63A, Utah Government Operations Code;
  - (c) Title 63J, Chapter 1, Budgetary Procedures Act; and



- (d) Title 63A, Chapter 17, Utah State Personnel Management Act.
- (2) The authority is subject to:
  - (a) Title 52, Chapter 4, Open and Public Meetings Act;
  - (b) Section 67-3-12;
  - (c) Title 63G, Chapter 2, Government Records Access and Management Act; and
  - (d) Title 63G, Chapter 6a, Utah Procurement Code.
- (3) The authority is subject to audit by the state auditor pursuant to Title 67, Chapter 3, Auditor, and by the legislative auditor general pursuant to Section 36-12-15.
- (4) Subject to the requirements of Subsection 63E-1-304(2), the authority may participate in coverage under the Risk Management Fund created by Section 63A-4-201.

Amended by Chapter 84, 2021 General Session  
Amended by Chapter 345, 2021 General Session

**63H-4-109 Duty to maintain rails.**

The authority shall maintain the rails, bed, right-of-way, railroad bridges, and related property upon which the authority's train shall operate in compliance with state and federal statutes, rules, and regulations.

Amended by Chapter 355, 2019 General Session

**63H-4-110 Lease of rails from Department of Transportation and Division of State Parks.**

The Department of Transportation and the Division of State Parks shall jointly lease the rails, bed, right-of-way, and related property for not more than \$1 per year to the authority.

Amended by Chapter 280, 2021 General Session

**63H-4-111 Sales tax exemption.**

The authority and its operators are exempt from sales and use tax imposed under Title 59, Chapter 12, Sales and Use Tax Act, for their purchases and sales related to the operation and maintenance of a scenic and historic railroad in and around the Heber Valley.

Renumbered and Amended by Chapter 370, 2011 General Session

**Chapter 7a  
Utah Communications Authority Act**

**Part 1  
General Provisions**

**63H-7a-102 Utah Communications Authority -- Purpose.**

- (1) This chapter establishes the Utah Communications Authority as an independent state agency.
- (2) The Utah Communications Authority shall:
  - (a) provide administrative and financial support for statewide 911 emergency services; and
  - (b) establish and maintain a statewide public safety communications network for all state, city, county, and local governmental entities.

Amended by Chapter 507, 2023 General Session

**63H-7a-103 Definitions.**

As used in this chapter:

- (1) "911 account" means the Unified Statewide 911 Emergency Service Account, created in Subsection 63H-7a-304(1).
- (2) "911 call transfer" means the redirection of a 911 call from the person who initially receives the call to another person within the state.
- (3) "Authority" means the Utah Communications Authority created in Section 63H-7a-201.
- (4) "Backhaul network" means the portion of a public safety communications network that consists primarily of microwave paths, fiber lines, or ethernet circuits.
- (5) "Board" means the Utah Communications Authority Board created in Section 63H-7a-203.
- (6) "CAD" means a computer-based system that aids PSAP dispatchers by automating selected dispatching and record-keeping activities.
- (7) "CAD-to-CAD" means standardized connectivity between PSAPs or between a PSAP and a dispatch center for the transmission of data between CADs.
- (8) "Dispatch center" means an entity that receives and responds to an emergency or nonemergency communication transferred to the entity from a public safety answering point.
- (9) "FirstNet" means the federal First Responder Network Authority established in 47 U.S.C. Sec. 1424.
- (10) "Lease" means any lease, lease purchase, sublease, operating, management, or similar agreement.
- (11) "Public agency" means any political subdivision of the state dispatched by a public safety answering point.
- (12) "Public safety agency" means the same as that term defined in Section 69-2-102.
- (13) "Public safety answering point" or "PSAP" means an entity in this state that:
  - (a) receives, as a first point of contact, direct 911 emergency communications from the 911 emergency service network requesting a public safety service;
  - (b) has a facility with the equipment and staff necessary to receive the communication;
  - (c) assesses, classifies, and prioritizes the communication;
  - (d) dispatches the communication to the proper responding agency; and
  - (e) submits information as described in Section 63H-7a-208.
- (14) "Public safety communications network" means:
  - (a) a regional or statewide public safety governmental communications network and related facilities, including real property, improvements, and equipment necessary for the acquisition, construction, and operation of the services and facilities; and
  - (b) 911 emergency services, including radio communications, connectivity, and 911 call processing equipment.

Amended by Chapter 21, 2024 General Session

Amended by Chapter 357, 2024 General Session

**63H-7a-104 Relation to certain acts.**

- (1) The authority is exempt from:
  - (a) Title 51, Chapter 5, Funds Consolidation Act;
  - (b) except as provided in Subsection (5), Title 63A, Utah Government Operations Code; and
  - (c) Title 63G, Chapter 4, Administrative Procedures Act.

- (2) The authority is subject to:
  - (a) Title 52, Chapter 4, Open and Public Meetings Act;
  - (b) Title 63G, Chapter 2, Government Records Access and Management Act;
  - (c) Title 63G, Chapter 6a, Utah Procurement Code;
  - (d) Title 63J, Chapter 1, Budgetary Procedures Act; and
  - (e) Section 67-3-12.
- (3) The authority, the board, and the committee members are subject to Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.
- (4) The board shall adopt procedures, accounting, and personnel and human resource policies substantially similar to those from which the authority is exempted under Subsection (1).
- (5) Subject to the requirements of Subsection 63E-1-304(2), the authority may participate in coverage under the Risk Management Fund created in Section 63A-4-201.

Amended by Chapter 357, 2024 General Session

## **Part 2**

### **Utah Communications Authority Governance**

#### **63H-7a-201 Utah Communications Authority established.**

- (1) As used in this section, "independent state agency" means the same as that term is defined in Section 63E-1-102.
- (2) There is established the Utah Communications Authority as an independent state agency and not a division within any other department of the state.

Amended by Chapter 357, 2024 General Session

#### **63H-7a-202 Powers and duties of the Utah Communications Authority.**

- (1) The authority has the power to:
  - (a) sue and be sued in the authority's own name;
  - (b) have an official seal and power to alter that seal at will;
  - (c) make and execute contracts and all other instruments necessary or convenient for the performance of the authority's duties and the exercise of the authority's powers and functions under this chapter, including contracts with public and private providers;
  - (d) own, acquire, design, construct, operate, maintain, repair, and dispose of any portion of a public safety communications network utilizing technology that is fiscally prudent, upgradable, technologically advanced, redundant, and secure;
  - (e) borrow money and incur indebtedness;
  - (f) enter into agreements with public agencies, private persons, the state, and federal government to provide public safety communications network services on terms and conditions the authority considers to be in the best interest of the authority;
  - (g) acquire, by gift, grant, purchase, or by exercise of eminent domain, any real property or personal property in connection with the acquisition and construction of a public safety communications network and all related facilities and rights-of-way that the authority owns, operates, and maintains;

- (h) sell, lease, or trade public safety communications network capacity, except backhaul network capacity, to a state agency, a political subdivision of the state, or an agency of the federal government;
  - (i) sell, lease, or trade backhaul network capacity to a state agency, a political subdivision of the state, or an agency of the federal government for a public safety purpose;
  - (j) sell, lease, or trade backhaul network capacity to a state agency, a political subdivision of the state, or an agency of the federal government for a purpose other than a public safety purpose, subject to a maximum of 50 megabytes per second in the aggregate at any one location;
  - (k) subject to Subsection (2):
    - (i) sell, lease, or trade backhaul network capacity to a private person for a public safety purpose, subject to a maximum of 50 megabytes per second in the aggregate at any one location; or
    - (ii) sell, lease, or trade public safety communications network capacity, except backhaul network capacity, to a private person for any purpose;
  - (l) sell, lease, or trade public safety communications network capacity, if the sale, lease, or trade is under an agreement the authority entered into before June 30, 2020, or under an extension of an agreement that the authority entered into before June 30, 2020;
  - (m) review, approve, disapprove, or revise recommendations regarding the expenditure of funds disbursed by the authority under this chapter; and
  - (n) perform all other duties authorized by this chapter.
- (2)
- (a) For a sale, lease, or trade to a private person under Subsection (1)(k), the authority shall require compensation from the private person that is:
    - (i) at fair market prices and reasonable;
    - (ii) competitively neutral;
    - (iii) nondiscriminatory;
    - (iv) open to public inspection; and
    - (v) established to promote access by multiple telecommunication facility providers.
  - (b)
    - (i) Compensation charged under Subsection (2)(a) may be cash, in-kind, or a combination of cash and in-kind.
    - (ii) In-kind compensation may not be charged without the agreement of the authority and the private person who will pay the in-kind compensation.
    - (iii) The authority shall determine the present value of any in-kind compensation based on the incremental cost to the private person.
    - (iv) The authority shall require the value of any in-kind compensation or combination of cash and in-kind compensation to be at least the amount of cash that would be paid if compensation were cash only.
- (3) The authority shall work with PSAPs to identify and address deficiencies relating to PSAP staffing and training.

Amended by Chapter 507, 2023 General Session

**63H-7a-203 Board established -- Terms -- Vacancies.**

- (1) There is created the Utah Communications Authority Board.
- (2) The board shall consist of nine voting board members and two nonvoting board members as follows:

- (a) as voting members:
  - (i) three individuals appointed by the governor with the advice and consent of the Senate;
  - (ii) one individual who is not a legislator appointed by the speaker of the House of Representatives;
  - (iii) one individual who is not a legislator appointed by the president of the Senate;
  - (iv) two individuals nominated by an association that represents cities and towns in the state and appointed by the governor with the advice and consent of the Senate; and
  - (v) two individuals nominated by an association that represents counties in the state and appointed by the governor with the advice and consent of the Senate; and
- (b) as nonvoting members, the chairs of the public safety advisory committee created in Section 63H-7a-207 and the PSAP advisory committee created in Section 63H-7a-208.
- (3) Subject to this section, an individual is eligible for appointment under Subsection (2) if the individual has knowledge of at least one of the following:
  - (a) law enforcement;
  - (b) public safety;
  - (c) fire service;
  - (d) telecommunications;
  - (e) finance;
  - (f) management; and
  - (g) government.
- (4) An individual may not serve as a voting board member if the individual is a current public safety communications network:
  - (a) user; or
  - (b) vendor.
- (5)
  - (a)
    - (i) Five of the board members appointed under Subsection (2)(a) shall serve an initial term of two years and four of the board members appointed under Subsection (2)(a) shall serve an initial term of four years.
    - (ii) Successor board members shall each serve a term of four years.
  - (b)
    - (i) The governor may remove a board member with cause.
    - (ii) If the governor removes a board member the entity that appointed the board member under Subsection (2)(a) shall appoint a replacement board member in the same manner as described in Subsection (2)(a).
- (6)
  - (a) The governor shall, after consultation with the board, appoint a voting board member as chair of the board.
  - (b) The chair shall serve a two-year term.
- (7) The board shall meet on an as-needed basis and as provided in the bylaws.
- (8)
  - (a) The board shall elect one of the board members to serve as vice chair.
  - (b)
    - (i) The board may elect a secretary and treasurer who are not members of the board.
    - (ii) If the board elects a secretary or treasurer who is not a member of the board, the secretary or treasurer does not have voting power.
  - (c) A separate individual shall hold the offices of chair, vice chair, secretary, and treasurer.

- (9) Except for the nonvoting members described in Subsection (2)(b), each board member, including the chair, has one vote.
- (10) A vote of a majority of the board members is necessary to take action on behalf of the board.
- (11) A board member may not receive compensation for the member's service on the board, but may, in accordance with rules adopted by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, receive:
  - (a) a per diem at the rate established under Section 63A-3-106; and
  - (b) travel expenses at the rate established under Section 63A-3-107.

Amended by Chapter 357, 2024 General Session

**63H-7a-204 Utah Communications Authority Board powers and duties.**

The board shall:

- (1) manage the affairs and business of the authority consistent with this chapter;
- (2) adopt bylaws;
- (3) appoint an executive director to administer the authority;
- (4) receive and act upon reports covering the operations of the public safety communications network and funds administered by the authority;
- (5) receive and act upon reports from the Radio Network Division prepared pursuant to Subsection 63H-7a-402(1)(b) that identify the benefits, costs, and economic feasibility of using existing public or private facilities, equipment, or services consistent with Subsections 63H-7a-402(1)(a) and 63H-7a-404(2)(c), prior to issuing or approving a request for proposal;
- (6) ensure that the public safety communications network and funds are administered according to law;
- (7) examine and approve an annual operating budget for the authority;
- (8) receive and act upon recommendations of the director;
- (9) recommend to the governor and Legislature legislation involving the public safety communications network;
- (10) develop policies for the long-term operation of the authority and the performance of the authority's functions;
- (11) authorize the executive director to enter into agreements on behalf of the authority;
- (12) provide for the management and administration of the public safety communications network by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- (13) exercise the powers and perform the duties conferred on the board by this chapter;
- (14) consider issues and information received from the public safety advisory committee and the PSAP advisory committee;
- (15) provide for audits of the authority;
- (16) establish the following divisions within the authority:
  - (a) 911 Division;
  - (b) Radio Network Division;
  - (c) Interoperability Division; and
  - (d) Administrative Services Division; and
- (17) on or before November 30, 2020, adopt a statewide CAD-to-CAD call handling and 911 call transfer protocol, after receiving the PSAP advisory committee's proposal under Subsection 63H-7a-208(9).

Amended by Chapter 368, 2020 General Session

**63H-7a-205 Executive director -- Appointment -- Powers and duties.**

The executive director shall:

- (1)
  - (a) serve at the pleasure of the board; and
  - (b) act as the executive officer of the authority;
- (2) administer the duties, programs, and functions assigned to the authority;
- (3) recommend administrative rules and policies to the board;
- (4) execute contracts on behalf of the authority;
- (5) recommend to the board any changes in statutes affecting the authority;
- (6) recommend to the board an annual administrative budget covering administration, management, and operations of the authority;
- (7) with board approval, direct and control authority expenditures; and
- (8) within the limitations of the budget, employ personnel, consultants, a financial officer, and legal counsel to provide professional services and advice regarding the administration of the authority.

Amended by Chapter 357, 2024 General Session

**63H-7a-206 Required annual reporting and strategic plan.**

- (1) The authority shall create, maintain, and review annually a statewide, comprehensive multiyear strategic plan, in consultation with state and local stakeholders, the PSAP advisory committee, and the public safety advisory committee, that:
  - (a) coordinates the authority's activities and duties in the:
    - (i) 911 Division;
    - (ii) Radio Network Division;
    - (iii) Interoperability Division; and
    - (iv) Administrative Services Division; and
  - (b) includes:
    - (i) a plan for maintaining, upgrading, and expanding the public safety communications network, including microwave and fiber optics based systems;
    - (ii) a plan for statewide interoperability;
    - (iii) a plan for statewide coordination;
    - (iv) radio network coverage maps; and
    - (v) FirstNet standards.
- (2) The executive director shall update the strategic plan described in Subsection (1) before July 1 of each year.
- (3) The executive director shall, before December 1 of each year, report on the strategic plan described in Subsection (1) to:
  - (a) the board;
  - (b) the Executive Offices and Criminal Justice Appropriations Subcommittee;
  - (c) the Legislative Management Committee; and
  - (d) the Retirement and Independent Entities Interim Committee.
- (4) Each report described in Subsection (3) shall include a description of the authority's goals for implementation of the strategic plan and a progress report of accomplishments and updates to the strategic plan.
- (5) The authority shall consider the strategic plan described in Subsection (1) before spending funds in the restricted accounts created by this chapter.
- (6)

- (a) Following the close of each fiscal year, the executive director shall submit and make available to the public an annual report of the authority's activities for the preceding year to the governor, the board, the Executive Offices and Criminal Justice Appropriations Subcommittee, the Legislative Management Committee, and the Retirement and Independent Entities Interim Committee.
- (b) Each report described in Subsection (6)(a) shall include:
  - (i) the agency's complete operating and financial statement for the preceding fiscal year;
  - (ii) the total aggregate surcharge collected by the state in the last fiscal year under Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges;
  - (iii) the amount of each disbursement from the restricted accounts described in:
    - (A) Section 63H-7a-304; and
    - (B) Section 63H-7a-403;
  - (iv) the recipient of each disbursement, the goods and services received, and a description of the project funded by the disbursement;
  - (v) any conditions the authority placed on the disbursements from a restricted account;
  - (vi) the anticipated expenditures from the restricted accounts described in this chapter for the next fiscal year;
  - (vii) the amount of any unexpended funds carried forward; and
  - (viii) other relevant justification for ongoing support from the restricted accounts created by:
    - (A) Section 63H-7a-304; and
    - (B) Section 63H-7a-403.

Amended by Chapter 357, 2024 General Session

**63H-7a-207 Public safety advisory committee.**

- (1) There is established the public safety advisory committee composed of 15 members as described in Subsections (2) and (3).
- (2) The board shall appoint members to the public safety advisory committee as follows:
  - (a) one representative from an association that represents fire chiefs in the state;
  - (b) one representative from an association that represents police chiefs in the state;
  - (c) one representative from an association that represents sheriffs in the state;
  - (d) one representative from an association that represents emergency medical service personnel in the state;
  - (e) one member of law enforcement from a county of the first or second class;
  - (f) one member of law enforcement from a county of the third or fourth class;
  - (g) one member of law enforcement from a county of the fifth or sixth class;
  - (h) one individual from a fire department within a county of the first or second class;
  - (i) one individual from a fire department within a county of the third or fourth class;
  - (j) one individual from a fire department within a county of the fifth or sixth class; and
  - (k) one individual from the public safety communications industry.
- (3) The following shall serve on the public safety advisory committee:
  - (a) the commissioner of public safety or the commissioner's designee;
  - (b) the executive director of the Department of Transportation or the executive director's designee;
  - (c) the chair of the public safety answering point advisory committee created in Section 63H-7a-208; and
  - (d) an individual nominated by the representatives of tribal governments elected under Section 9-9-104.5.



- (4)
  - (a) Subject to Subsection (4)(b), each member appointed pursuant to Subsection (2) shall be appointed to a four-year term beginning July 1, 2019.
  - (b) Notwithstanding Subsection (2)(a), the board shall:
    - (i) at the time of appointment or reappointment of individuals described in Subsection (2), adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the those appointed pursuant to Subsection (2) are appointed every two years; and
    - (ii) not reappoint a member for more than two consecutive terms.
- (5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed as described in Subsection (2) or (3), as applicable, for the unexpired term.
- (6)
  - (a) Each January, the committee shall organize and select one of the committee's members as chair and one member as vice chair.
  - (b) The committee may organize standing or ad hoc subcommittees, which shall operate in accordance with guidelines established by the committee.
- (7)
  - (a) The chair shall convene a minimum of four meetings per year.
  - (b) The chair may call special meetings.
  - (c) The chair shall call a meeting upon request of eight or more members of the committee.
- (8) Eight members of the committee constitute a quorum for the transaction of business, and the action of a majority of the members present is the action of the committee.
- (9) A member may not receive compensation or benefits for the member's service.
- (10) The public safety advisory committee shall, on behalf of stakeholders, make recommendations to the director and the board regarding:
  - (a) the authority operations and policies;
  - (b) the radio network division and interoperability division strategic plans;
  - (c) the operation, maintenance, and capital development of and access to the public safety communications network;
  - (d) the authority's administrative rules relative to the radio network division and interoperability division; and
  - (e) how to solve stakeholder interoperability problems.
- (11) The chair of the public safety advisory committee is a nonvoting member of the board.
- (12)
  - (a) The committee is not subject to Title 52, Chapter 4, Open and Public Meetings Act.
  - (b) The committee shall:
    - (i) at least 24 hours before a committee meeting, post a notice of the meeting, with a meeting agenda, on the authority's website;
    - (ii) within 10 days after a committee meeting, post to the authority's website the audio and draft minutes of the meeting; and
    - (iii) within three days after the committee approves minutes of a committee meeting, post the approved minutes to the authority's website.
  - (c) The committee's vice chair is responsible for preparing minutes of committee meetings.

Amended by Chapter 368, 2020 General Session

**63H-7a-208 PSAP advisory committee.**

- (1) There is established a PSAP advisory committee composed of nine members appointed by the board as follows:
  - (a) one representative from a PSAP managed by a city;
  - (b) one representative from a PSAP managed by a county;
  - (c) one representative from a PSAP managed by a special service district;
  - (d) one representative from a PSAP managed by the Department of Public Safety;
  - (e) one representative from a PSAP from a county of the first class;
  - (f) one representative from a PSAP from a county of the second class;
  - (g) one representative from a PSAP from a county of the third or fourth class;
  - (h) one representative from a PSAP from a county of the fifth or sixth class; and
  - (i) one member from the telecommunications industry.
- (2)
  - (a) Except as provided in Subsection (2)(b), each member shall be appointed to a four-year term beginning July 1, 2019.
  - (b) Notwithstanding Subsection (2)(a), the board shall:
    - (i) at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that the terms of approximately half of the committee end every two years; and
    - (ii) not reappoint a member for more than two consecutive terms.
- (3) If a vacancy occurs in the membership for any reason, the replacement shall be appointed by the board for the unexpired term.
- (4)
  - (a) Each January, the committee shall organize and select one of its members as chair and one member as vice chair.
  - (b) The committee may organize standing or ad hoc subcommittees, which shall operate in accordance with guidelines established by the committee.
- (5)
  - (a) The chair shall convene a minimum of four meetings per year.
  - (b) The chair may call special meetings.
  - (c) The chair shall call a meeting upon request of five or more members of the committee.
- (6) Five members of the committee constitute a quorum for the transaction of business, and the action of a majority of the members present is the action of the committee.
- (7) A member may not receive compensation or benefits for the member's service.
- (8) The PSAP advisory committee shall, on behalf of stakeholders, make recommendations to the director and the board regarding:
  - (a) the authority operations and policies;
  - (b) the 911 division and interoperability division strategic plans;
  - (c) the operation, maintenance, and capital development of the public safety communications network;
  - (d) the authority's administrative rules relative to the 911 division and the interoperability division; and
  - (e) the development of minimum standards and best practices as described in Subsection 63H-7a-302(1)(a).
- (9) No later than September 30, 2020, the PSAP advisory committee shall propose to the board a statewide CAD-to-CAD call handling and 911 call transfer protocol.
- (10) The chair of the PSAP advisory committee is a nonvoting member of the board.
- (11)
  - (a) The committee is not subject to Title 52, Chapter 4, Open and Public Meetings Act.

- (b) The committee shall:
    - (i) at least 24 hours before a committee meeting, post a notice of the meeting, with a meeting agenda, on the authority's website;
    - (ii) within 10 days after a committee meeting, post to the authority's website the audio and draft minutes of the meeting; and
    - (iii) within three days after the committee approves minutes of a committee meeting, post the approved minutes to the authority's website.
  - (c) The committee's vice chair is responsible for preparing minutes of committee meetings.
- (12) On or before December 31, 2024, the PSAP advisory committee shall coordinate with the State Bureau of Investigation to use the intelligence system described in Subsections 53-10-302(7) and (8) to:
- (a) establish the information a PSAP is required to submit to the intelligence system; and
  - (b) create a format for submitting information.

Amended by Chapter 21, 2024 General Session

### **Part 3 911 Division**

#### **63H-7a-301 911 Division.**

- (1) There is created within the authority the 911 Division.
- (2) The 911 Division has the duties and powers described in this chapter.

Amended by Chapter 357, 2024 General Session

#### **63H-7a-302 911 Division duties and powers.**

- (1) The 911 Division shall:
  - (a) in conjunction with the PSAP advisory committee, develop and report to the director minimum standards and best practices:
    - (i) for public safety answering points in the state, including minimum technical, administrative, fiscal, network, and operational standards for public safety answering points and dispatch centers; and
    - (ii) that will result in rapid, efficient, and interoperable 911 services throughout the state;
  - (b) annually prepare and publish a report of how well PSAPs statewide are complying with the standards and best practices developed under Subsection (1)(a);
  - (c) investigate and report to the director on emerging technology;
  - (d) monitor and coordinate the implementation of the unified statewide 911 emergency services network;
  - (e) investigate and recommend to the director mapping systems and technology necessary to implement the unified statewide 911 emergency services network;
  - (f) prepare and submit to the executive director for approval by the board:
    - (i) an annual budget for the 911 Division; and
    - (ii) information required by the director to contribute to the strategic plan described in Section 63H-7a-206; and
  - (g) assist public safety answering points implementing and coordinating the unified statewide 911 emergency services network.

- (2)
  - (a) The 911 Division shall review information regarding:
    - (i) in aggregate, the number of service subscribers by service type in a political subdivision;
    - (ii) network costs;
    - (iii) public safety answering point costs;
    - (iv) system engineering information; and
    - (v) connectivity between public safety answering point computer aided dispatch systems.
  - (b) In accordance with Subsection (2)(a) the 911 Division may request:
    - (i) information as described in Subsection (2)(a)(i) from the State Tax Commission; and
    - (ii) information from public safety answering points related to the computer aided dispatch system.
  - (c) The information requested by and provided to the 911 Division under Subsection (2) is a protected record in accordance with Section 63G-2-305.
- (3) The board may authorize the 911 Division to employ an outside consultant to study and advise the division on matters related to the 911 Division duties regarding the public safety communications network.
- (4) The 911 Division shall administer the program funded by the 911 account in accordance with Sections 63H-7a-304 and 63H-7a-304.5.
- (5) This section does not expand the authority of the State Tax Commission to request additional information from a telecommunication service provider.

Amended by Chapter 5, 2024 Special Session 3  
Amended by Chapter 368, 2020 General Session

**63H-7a-304 Unified Statewide 911 Emergency Service Account -- Creation -- Administration -- Permitted uses.**

- (1) There is created a restricted account within the General Fund known as the "Unified Statewide 911 Emergency Service Account," consisting of:
  - (a) proceeds from the fee imposed in Section 69-2-403;
  - (b) money appropriated or otherwise made available by the Legislature; and
  - (c) contributions of money, property, or equipment from federal agencies, political subdivisions of the state, persons, or corporations.
- (2)
  - (a) Except as provided in Subsection (4) and subject to Subsection (3) and appropriations by the Legislature, the authority shall disburse funds in the 911 account for the purpose of enhancing and maintaining the statewide public safety communications network and 911 call processing equipment in order to rapidly, efficiently, effectively, and with greater interoperability deliver 911 services in the state.
  - (b) In expending funds in the 911 account, the authority shall give a higher priority to an expenditure that:
    - (i) best promotes statewide public safety;
    - (ii) best promotes interoperability;
    - (iii) impacts the largest service territory;
    - (iv) impacts a densely populated area; or
    - (v) impacts an underserved area.
  - (c) The authority shall expend funds in the 911 account in accordance with the authority strategic plan described in Section 63H-7a-206.

- (d) The authority may not expend funds from the 911 account collected through the 911 emergency service charge imposed in Section 69-2-403 on behalf of a PSAP that chooses not to participate in the:
  - (i) public safety communications network; and
  - (ii) the 911 emergency service defined in Section 69-2-102.
- (e) The authority may not expend funds from the 911 account collected through the prepaid wireless 911 service charge revenue distributed in Subsections 69-2-405(9)(a)(iii) and 69-2-405(9)(b)(iii) on behalf of a PSAP that chooses not to participate in the:
  - (i) public safety communications network; and
  - (ii) 911 emergency service defined in Section 69-2-102.
- (f) The executive director shall recommend to the board expenditures for the authority to make from the 911 account in accordance with this Subsection (2).
- (3) Subject to an appropriation by the Legislature and approval by the board, the Administrative Services Division may use funds in the 911 account to cover the Administrative Services Division's administrative costs related to the 911 account.
- (4)
  - (a) The authority shall reimburse from the 911 account to the Utah Geospatial Resource Center created in Section 63A-16-505 an amount equal to up to 1 cent of each unified statewide 911 emergency service charge deposited into the 911 account under Section 69-2-403.
  - (b) The Utah Geospatial Resource Center shall use the funds reimbursed to the Utah Geospatial Resource Center under Subsection (4)(a) to:
    - (i) enhance and upgrade digital mapping standards; and
    - (ii) maintain a statewide geospatial database for unified statewide 911 emergency service.

Amended by Chapter 435, 2022 General Session

**63H-7a-304.5 Distributions from 911 account to qualifying PSAPs.**

- (1) As used in this section:
  - (a) "Certified statement" means a statement signed by a PSAP's director or other authorized administrator certifying the PSAP's compliance with the requirements of Subsection (2)(a).
  - (b) "Fiscal year" means the period from July 1 of one year to June 30 of the following year.
  - (c) "Proportionate share" means a percentage derived by dividing a PSAP's average 911 call volume, as reported to the State Tax Commission under Section 69-2-302, for the preceding three years by the total of the average 911 call volume for the same three-year period for all PSAPs that have submitted a certified statement seeking a distribution of the applicable remaining funds.
  - (d) "Qualifying PSAP" means a PSAP that:
    - (i) meets the requirements of Subsection (2)(a) for the period for which remaining funds are sought; and
    - (ii) submits a timely certified statement to the authority.
  - (e) "Remaining funds" means the money remaining in the 911 account after deducting:
    - (i) disbursements under Subsections 63H-7a-304(2)(a), (3), and (4);
    - (ii) authority expenditures or disbursements in accordance with the authority's strategic plan, including expenditures or disbursements to pay for:
      - (A) implementing, maintaining, or upgrading the public safety communications network or statewide 911 phone system; and
      - (B) authority overhead for managing the 911 portion of the public safety communications network; and

- (iii) money that the board determines should remain in the 911 account for future use.
  - (f) "Required transfer rate" means a transfer rate of no more than 2%.
  - (g) "Transfer rate" means the same as that term is defined in Section 69-2-204.
- (2)
- (a) To qualify for a proportionate share of remaining funds, a PSAP shall, for the period for which remaining funds are sought:
    - (i) have answered:
      - (A) 90% of all 911 calls arriving at the PSAP within 15 seconds; and
      - (B) 95% of all 911 calls arriving at the PSAP within 20 seconds;
    - (ii) have adopted and be using the statewide CAD-to-CAD call handling and 911 call transfer protocol adopted by the board under Subsection 63H-7a-204(17);
    - (iii) have participated in the authority's annual interoperability exercise;
    - (iv) have complied with the required transfer rate; and
    - (v) be designated as an emergency medical service dispatch center according to Section 26B-4-117.
  - (b) A PSAP that seeks a proportionate share of remaining funds shall submit a certified statement to the authority no later than July 31 following the end of the fiscal year for which remaining funds are sought.
  - (c) Notwithstanding Subsection (2)(a):
    - (i) a qualifying PSAP in a county with multiple PSAPs does not qualify for a proportionate share of remaining funds for a period beginning after June 30, 2023, unless every PSAP in that county is a qualifying PSAP; and
    - (ii) a PSAP described in Subsection 69-2-203(5) does not qualify for remaining funds.
- (3)
- (a) Subject to Subsection (3)(b), for PSAPs that have become qualifying PSAPs for the previous fiscal year the authority shall distribute to each qualifying PSAP that PSAP's proportionate share of the remaining funds.
  - (b) The authority may not distribute more than 20% of remaining funds to any single PSAP.
- (4) All money that a PSAP receives under this section is subject to Section 69-2-301.

Amended by Chapter 357, 2024 General Session

## **Part 4**

### **Radio Network Division**

#### **63H-7a-401 Radio Network Division.**

There is created within the authority the Radio Network Division.

Amended by Chapter 357, 2024 General Session

#### **63H-7a-402 Radio Network Division duties.**

- (1) The Radio Network Division shall:
- (a) provide and maintain the public safety communications network for all political subdivisions in the state within the authority network, including the existing VHF and 700 and 800 MHz networks, in a manner that:
    - (i) promotes high quality, cost effective service;

- (ii) evaluates the benefits, cost, existing facilities, equipment, and services of public and private providers; and
  - (iii) where economically feasible, utilizes existing infrastructure to avoid duplication of facilities, equipment, and services of providers of communication services;
  - (b) prior to issuing one or more requests for proposal:
    - (i) prepare a report demonstrating the Radio Network Division has:
      - (A) identified the locations and functional capabilities of existing public and private communications facilities in the state;
      - (B) specifically evaluated the benefits, costs, and economic feasibility of utilizing existing facilities, equipment, and services of public and private providers; and
      - (C) identified the public and private communications facilities that may be integrated with the public safety communications network; and
    - (ii) present the report to the board at an open and public board meeting;
  - (c) prepare and submit to the executive director for approval by the board:
    - (i) an annual budget for the Radio Network Division;
    - (ii) an annual plan for the program funded by the Utah Statewide Radio System Restricted Account created in Section 63H-7a-403; and
    - (iii) information required by the director to contribute to the comprehensive strategic plan described in Section 63H-7a-206;
  - (d) recommend to the executive director administrative rules for approval by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the program funded by the restricted account created in Section 63H-7a-403, including rules that establish the criteria, standards, technology, equipment, and services that will qualify for goods or services that are funded from the restricted accounts; and
  - (e) fulfill other duties assigned to the Radio Network Division under this chapter.
- (2) The Radio Network Division may:
- (a) recommend to the executive director to sell, lease, or otherwise dispose of equipment or personal property purchased, leased, or belonging to the authority that is related to the public safety communications network;
  - (b) recommend to the executive director to own, operate, or enter into contracts for the public safety communications network;
  - (c) review information regarding:
    - (i) in aggregate, the number of radio service subscribers by service type in a political subdivision; and
    - (ii) matters related to the public safety communications network;
  - (d) in accordance with Subsection (2)(c), request information from:
    - (i) local and state entities; and
    - (ii) public safety agencies; and
  - (e) employ outside consultants to study and advise the division on issues related to:
    - (i) the public safety communications network;
    - (ii) radio technologies and services;
    - (iii) microwave connectivity;
    - (iv) fiber connectivity; and
    - (v) public safety communication network connectivity and usage.
- (3) The information requested by and provided to the Radio Network Division under Subsections (2)(c) and (d) is a protected record in accordance with Section 63G-2-305.
- (4) This section does not expand the authority of the State Tax Commission to request additional information from a telecommunication service provider.

Amended by Chapter 507, 2023 General Session

**63H-7a-403 Utah Statewide Radio System Restricted Account -- Creation -- Administration.**

- (1) There is created a restricted account within the General Fund known as the "Utah Statewide Radio System Restricted Account," consisting of:
  - (a) money appropriated or otherwise made available by the Legislature; and
  - (b) contributions of money from federal agencies, political subdivisions of the state, persons, or corporations.
- (2)
  - (a) Subject to appropriations by the Legislature and subject to this Subsection (2), the authority may expend funds in the Utah Statewide Radio System Restricted Account for the purpose of acquiring, constructing, operating, maintaining, and repairing a statewide radio system public safety communications network as authorized in Section 63H-7a-202, including:
    - (i) public safety communications network and related facilities, real property, improvements, and equipment necessary for the acquisition, construction, and operation of services and facilities;
    - (ii) installation, implementation, and maintenance of the public safety communications network;
    - (iii) maintaining and upgrading VHF and 800 MHz radio networks; and
    - (iv) an operating budget to include personnel costs not otherwise covered by funds from another account.
  - (b) For each radio network charge that is deposited into the Utah Statewide Radio System Restricted Account under Section 69-2-404, the authority shall spend, subject to an appropriation by the Legislature and this Subsection (2):
    - (i) on and after July 1, 2017, and before January 1, 2025, 18 cents of each total radio network charge to maintain the public safety communications network, including:
      - (A) the 700 MHz, 800 MHz, and VHF radio networks;
      - (B) the authority's radio console network connectivity;
      - (C) funding a statewide interoperability coordinator; and
      - (D) authority administration costs;
    - (ii) on and after January 1, 2025, and before July 1, 2033, 27 cents of each total radio network charge to maintain the public safety communications network, including:
      - (A) the 700 MHz, 800 MHz, and VHF radio networks;
      - (B) the authority's radio console network connectivity;
      - (C) funding a statewide interoperability coordinator; and
      - (D) authority administration costs; and
    - (iii) on and after January 1, 2018, and before January 1, 2025, 34 cents of each total radio network charge to acquire, construct, equip, and install property for, and to make improvements to, the 800 MHz radio system, including debt service costs.
  - (c) In expending funds in the Utah Statewide Radio System Restricted Account, the authority shall give a higher priority to an expenditure that:
    - (i) best promotes statewide public safety;
    - (ii) best promotes interoperability;
    - (iii) impacts the largest service territory;
    - (iv) impacts a densely populated area; or
    - (v) impacts an underserved area.
  - (d) The authority shall expend funds in the Utah Statewide Radio System Restricted Account in accordance with the authority strategic plan described in Section 63H-7a-206.



- (e) The authority may not expend funds from the Utah Statewide Radio System Restricted Account collected through the radio network charge imposed in Section 69-2-404 on behalf of a public agency or PSAP if the public agency or PSAP chooses not to participate in the:
    - (i) public safety communications network; and
    - (ii) radio communications service defined in Section 69-2-102.
  - (f) The authority may not expend funds from the Utah Statewide Radio System Restricted Account collected through the prepaid wireless 911 service charge revenue distributed in Subsections 69-2-405(9)(a)(iii) and 69-2-405(9)(b)(iii) on behalf of a public agency or PSAP if the public agency or PSAP chooses not to participate in the:
    - (i) public safety communications network; and
    - (ii) radio communications service defined in Section 69-2-102.
  - (g) The executive director shall recommend to the board expenditures for the authority to make from the Utah Statewide Radio System Restricted Account in accordance with this Subsection (2).
- (3) Subject to appropriations by the Legislature , the Administrative Services Division may expend funds in the Utah Statewide Radio System Restricted Account for administrative costs that the Administrative Services Division incurs related to the Utah Statewide Radio System Restricted Account .

Amended by Chapter 435, 2022 General Session

**63H-7a-404 Radio Network Division responsibility to administer public safety communications network.**

- (1) The Radio Network Division shall administer the development, installation, implementation, and maintenance of the public safety communications network for the authority, for the benefit of state government entities and political subdivisions of the state that use the public safety communications network.
- (2) In developing and maintaining the public safety communications network as described in Subsection (1), the Radio Network Division shall:
  - (a) maintain and upgrade existing VHF and 800 MHz radio networks;
  - (b) coordinate with state government entities, political subdivisions of the state, and public and private providers; and
  - (c) contract for facilities, equipment, and services for the public safety communications network in a manner that:
    - (i) complies with Title 63G, Chapter 6a, Utah Procurement Code;
    - (ii) promotes high-quality, cost-effective services for public safety communications network users;
    - (iii) evaluates the costs and benefits of using existing public or private facilities, equipment, or services or developing or establishing new facilities, equipment, or services; and
    - (iv) where economically beneficial without compromising quality or reliability of service, avoids duplicating existing private or public facilities, equipment, or services.
- (3)
  - (a) The authority may not charge a state government entity or political subdivision of the state a radio user fee.
  - (b) Subsection (3)(a) may not be construed to prevent the authority from charging a state government entity or political subdivision of the state for other services associated with the public safety communications network.

- (c) The authority may charge a person other than a PSAP a fee for connecting a radio console to the public safety communications network.

Amended by Chapter 368, 2020 General Session

## **Part 5 Interoperability Division**

### **63H-7a-501 Interoperability Division.**

- (1) There is created within the authority the Interoperability Division, which is responsible for the duties of the authority as specified in this chapter.
- (2) The executive director shall appoint a statewide interoperability coordinator with the approval of the board.
- (3) The statewide interoperability coordinator shall be funded by the Department of Public Safety within appropriations to the Department of Public Safety for this purpose.

Amended by Chapter 357, 2024 General Session

### **63H-7a-502 Interoperability Division duties.**

- (1) The Interoperability Division shall:
  - (a) review and make recommendations to the executive director, for approval by the board, regarding:
    - (i) statewide interoperability coordination and FirstNet standards;
    - (ii) technical, administrative, fiscal, technological, network, and operational issues for the implementation of statewide interoperability, coordination, and FirstNet;
    - (iii) assisting public agencies with the implementation and coordination of the Interoperability Division responsibilities; and
    - (iv) training for the public safety communications network and unified statewide 911 emergency services;
  - (b) review information and records regarding:
    - (i) aggregate information of the number of service subscribers by service type in a political subdivision;
    - (ii) matters related to statewide interoperability coordination;
    - (iii) matters related to FirstNet including advising the governor regarding FirstNet; and
    - (iv) training needs;
  - (c) prepare and submit to the executive director for approval by the board:
    - (i) an annual plan for the Interoperability Division; and
    - (ii) information required by the director to contribute to the comprehensive strategic plan described in Section 63H-7a-206;
  - (d) prepare and conduct annual training exercises:
    - (i) for public safety agencies; and
    - (ii) designed to enhance interoperability and the effectiveness and efficiency of public safety agencies; and
  - (e) fulfill all other duties imposed on the Interoperability Division by this chapter.
- (2) The Interoperability Division may:

- (a) recommend to the executive director to own, operate, or enter into contracts related to statewide interoperability, FirstNet, and training;
- (b) request information needed under Subsection (1)(b)(i) from:
  - (i) the State Tax Commission; and
  - (ii) public safety agencies; and
- (c) employ an outside consultant to study and advise the Interoperability Division on:
  - (i) issues of statewide interoperability;
  - (ii) FirstNet; and
  - (iii) training.
- (3) The information requested by and provided to the Interoperability Division under Subsection (1)(b)(i) is a protected record in accordance with Section 63G-2-305.
- (4) This section does not expand the authority of the State Tax Commission to request additional information from a telecommunication service provider.

Amended by Chapter 368, 2020 General Session

**63H-7a-503 Statewide interoperability coordinator.**

The statewide interoperability coordinator shall:

- (1) promote wireless technology information and interoperability among local, state, federal, and other agencies;
- (2) provide a mechanism for coordinating and resolving wireless communication issues among local, state, federal, and other agencies;
- (3) improve data and information sharing and coordination of multijurisdictional responses;
- (4) consider opportunities to consolidate or improve interoperability of infrastructures and technologies;
- (5) evaluate current technologies and determine if they are meeting the needs of agency personnel in respective service areas;
- (6) create and maintain procedures for requesting interoperability channels; and
- (7) act as the FirstNet single point of contact for the authority.

Enacted by Chapter 411, 2015 General Session

**Part 6  
Administrative Services Division**

**63H-7a-601 Administrative Services Division -- Creation -- Legal services.**

- (1) There is created within the authority the Administrative Services Division.
- (2) The Administrative Services Division shall provide financial and human resources assistance to the authority under the direction of the board and the executive director.
- (3) At the board's request and with the board's approval, the Administrative Services Division may establish or contract for legal services for the authority.

Amended by Chapter 357, 2024 General Session

**63H-7a-602 Duties -- Administrative Services Division -- Accounting for authority disbursements.**

The Administrative Services Division is responsible for the care, custody, safekeeping, collection, and accounting for disbursements made by the authority under:

- (1) Section 63H-7a-304; and
- (2) Section 63H-7a-403.

Repealed and Re-enacted by Chapter 430, 2017 General Session

**63H-7a-603 Financial officer -- Duties.**

- (1) The executive director shall appoint a financial officer for the Administrative Services Division with the approval of the board.
- (2) The financial officer shall be responsible for accounting for the authority, including:
  - (a) safekeeping and investment of public funds of the authority, including the funds expended from the restricted accounts created in this chapter;
  - (b) the proper collection, deposit, disbursement, and management of the public funds of the authority in accordance with Title 51, Chapter 7, State Money Management Act;
  - (c) having authority to sign all bills payable, notes, checks, drafts, warrants, or other negotiable instruments in the absence of the executive director and the executive director's designated employee;
  - (d) providing to the board and the executive director a statement of the condition of the finances of the authority, at least annually and at such other times as shall be requested by the board; and
  - (e) performing all other duties incident to the financial officer.
- (3) The financial officer shall:
  - (a) be bonded in an amount established by the State Money Management Council; and
  - (b) file written reports with the State Money Management Council pursuant to Section 51-7-15.

Amended by Chapter 430, 2017 General Session

**Part 7  
Investment of Authority Funds**

**63H-7a-701 Investment of authority funds.**

- (1) The state treasurer shall invest all money held on deposit by or on behalf of the authority.
- (2) The board may provide advice to the state treasurer concerning investment of the money of the authority.

Repealed and Re-enacted by Chapter 430, 2017 General Session

**Part 8  
Miscellaneous Provisions**

**63H-7a-801 Property and funds of the authority declared public property -- Exemption from taxes.**

- (1) The property and funds of the authority are declared to be public property used for essential public and governmental purposes.

- (2) The property and the authority are exempt from all taxes and special assessments of any public body. This tax exemption does not apply to any portion of a project used for a profit-making enterprise.

Renumbered and Amended by Chapter 411, 2015 General Session

**63H-7a-802 Term of the authority -- Dissolution.**

- (1) The authority may be dissolved by an act of the Legislature.
- (2) Title to all assets of the authority upon its dissolution shall revert to the state for services provided by the public safety communications network.
- (3) The board is authorized to:
  - (a) take any necessary action to dissolve the authority; and
  - (b) dispose of the property of the authority upon its dissolution as provided in Subsection (2).

Amended by Chapter 509, 2019 General Session

**63H-7a-804 Audit by state auditor -- Reimbursement for costs.**

- (1) The state auditor shall at least once in each year audit the books and accounts of the authority or shall contract with an independent certified public accountant for this audit.
- (2) The audit described in Subsection (1) shall include a review of the procedures adopted under the requirements of Subsection 63H-7a-104(4) and a determination as to whether the board has complied with the requirements of Subsections 63H-7a-104(2) and (3).
- (3) The authority shall reimburse the state auditor from available money of the authority for the actual and necessary costs of an audit described in Subsection (1).

Amended by Chapter 357, 2024 General Session

## **Chapter 8 Utah Housing Corporation Act**

### **Part 1 General Provisions**

**63H-8-101 Title.**

This chapter is known as the "Utah Housing Corporation Act."

Renumbered and Amended by Chapter 226, 2015 General Session

**63H-8-102 Policy -- Finding and declaration.**

- (1) The Legislature declares that the policy of the state is to assure the health, safety, and welfare of its citizens, that an adequate supply of decent, safe, and sanitary housing is essential to the well-being of the citizens of the state, and that an adequate supply of mortgage funds for housing at reasonable interest rates is in the public interest.
- (2) The Legislature finds and declares that:

- (a) there continues to exist throughout the state a seriously inadequate supply of safe and sanitary dwelling accommodations within the financial means of persons and families of low or moderate income who wish to purchase or rent residential housing;
  - (b) from time to time the high rates of interest charged by mortgage lenders seriously restrict the transfer of existing housing and new housing starts;
  - (c) the reduction in residential construction starts associated with the high rates causes a condition of substantial unemployment and underemployment in the construction industry which impedes the economy of the state and affects the welfare and prosperity of all the people of the state;
  - (d) these conditions associated with the recurrent shortages of residential mortgage funds contribute to slums and blight in the cities and rural areas of the state and ultimately to the deterioration of the quality of living conditions within the state;
  - (e) in accordance with the purpose of this chapter to assist in providing housing for low and moderate income persons who otherwise could not achieve decent, safe, and sanitary housing, the corporation shall make every effort to make housing available in rural, inner city, and other areas experiencing difficulty in securing construction and mortgage loans, and to make decent, safe, and sanitary housing available to low income persons and families;
  - (f) in order to assure an adequate supply of private capital for this housing, the cooperation between private enterprise and state government is essential and is in the public interest;
  - (g) low and moderate income persons in Utah have a wide range of housing needs, which necessitates the development of many different kinds of programs to address those needs, including programs providing mortgage loans, nontraditional loans, grants, and other forms of financial assistance, and combinations of these forms;
  - (h) there are private organizations and governmental entities throughout Utah that are endeavoring to improve the availability of housing for low and moderate income persons and families, but many of these organizations and entities lack expertise and financial resources to act efficiently and expeditiously in these efforts;
  - (i) innovative programs that bring together resources from the public, nonprofit, and private sector are necessary in order to increase the supply of housing for low and moderate income persons and families, but these programs usually need advice and financial assistance to become established;
  - (j) all of the foregoing are public purposes and uses for which money may be borrowed, expended, advanced, loaned, or granted, and that these activities serve a public purpose in improving or otherwise benefiting the people of this state, and that the necessity of enacting the provisions in this chapter is in the public interest and is so declared as a matter of express legislative determination; and
  - (k) the compelling need within the state for the creation of an adequate supply of mortgage funds at reasonable interest rates and for other kinds of financial assistance to help provide affordable housing for low and moderate income individuals can be best met by the establishment of an independent body corporate and politic, constituting a public corporation, vested with the powers and duties specified in this chapter.
- (3) The Legislature declares that the corporation is intended to operate:
- (a) with the power to issue tax exempt bonds to finance the purchase of mortgage loans to qualified buyers;
  - (b) as a financially independent body; and
  - (c) so that its debts shall be payable solely from payments received by the corporation from mortgage borrowers and other revenues generated internally by the corporation.

Renumbered and Amended by Chapter 226, 2015 General Session

**63H-8-103 Definitions.**

As used in this chapter:

- (1) "Bonds," "notes," and "other obligations" mean bonds, notes, debentures, interim certificates, or other evidences of financial indebtedness of the corporation authorized to be issued under the provisions of this chapter.
- (2) "Construction loan" means a short-term advance of money for the purpose of constructing residential housing for low and moderate income persons.
- (3) "Corporation" means the Utah Housing Corporation created by Section 63H-8-201, which, prior to July 1, 2001, was named the Utah Housing Finance Agency.
- (4) "Employee of the corporation" means an individual who is employed by the corporation but who is not a trustee of the corporation.
- (5) "Financial assistance" includes:
  - (a) a loan, whether interest or noninterest bearing, secured or unsecured;
  - (b) a loan that converts to a grant upon the occurrence of specified conditions;
  - (c) a development loan;
  - (d) a grant;
  - (e) an award;
  - (f) a subsidy;
  - (g) a guarantee;
  - (h) a warranty;
  - (i) a lease;
  - (j) a payment on behalf of a borrower of an amount usually paid by a borrower, including a down payment;
  - (k) any other form of financial assistance that helps provide affordable housing for low and moderate income persons; or
  - (l) any combination of Subsections (5)(a) through (k).
- (6) "Housing development" means a residential housing project, which includes residential housing for low and moderate income persons.
- (7) "Housing sponsor" includes 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, residential housing to low and moderate income persons, including a local public body, a nonprofit, limited profit, or for profit corporation, a limited partnership, a limited liability company, a joint venture, a subsidiary of the corporation, or any subsidiary of the subsidiary, a cooperative, a mutual housing organization, or other type of entity or arrangement that helps provide affordable housing for low and moderate income persons.
- (8) "Interest rate contract" means an interest rate exchange contract, an interest rate floor contract, an interest rate ceiling contract, or another similar contract authorized in a resolution or policy adopted or approved by the trustees.
- (9) "Local public body" means the state, a municipality, county, district, or other subdivision or instrumentality of the state, including a redevelopment agency and a housing authority created under Title 35A, Chapter 8, Part 4, Housing Authorities.
- (10) "Low and moderate income persons" means individuals, irrespective of race, religion, creed, national origin, or sex, as determined by the corporation to require such assistance as is made available by this chapter on account of insufficient personal or family income taking into consideration factors, including:

- (a) the amount of income that persons and families have available for housing needs;
  - (b) the size of family;
  - (c) whether a person is a single head of household;
  - (d) the cost and condition of available residential housing; and
  - (e) the ability of persons and families to compete successfully in the normal private housing market and to pay the amounts at which private enterprise is providing decent, safe, and sanitary housing.
- (11) "Mortgage" means a mortgage, deed of trust, or other instrument securing a mortgage loan and constituting a lien on real property (the property being held in fee simple or on a leasehold under a lease having a remaining term, at the time the mortgage is acquired, of not less than the term for repayment of the mortgage loan secured by the mortgage) improved or to be improved by residential housing, creating a lien that may be first priority or subordinate.
- (12) "Mortgage lender" means a bank, trust company, savings and loan association, credit union, mortgage banker, or other financial institution authorized to transact business in the state, a local public body, or other entity, profit or nonprofit, that makes mortgage loans.
- (13) "Mortgage loan" means a loan secured by a mortgage, which loan may bear interest at either a fixed or variable rate or which may be noninterest bearing, the proceeds of which are used for the purpose of financing the construction, development, rehabilitation, purchase, or refinancing of residential housing for low and moderate income persons.
- (14) "Rehabilitation" includes the reconstruction, rehabilitation, improvement, and repair of residential housing.
- (15) "Residential housing" means a specific work or improvement within the state undertaken primarily to provide dwelling accommodations, including land, buildings, and improvements to land and buildings, whether in one to four family units or multifamily units, and other incidental or appurtenant nonhousing facilities, or as otherwise specified by the corporation.
- (16) "State" means the state of Utah.
- (17) "State housing credit ceiling" means the amount specified in Subsection 42(h)(3)(C) of the Internal Revenue Code for each calendar year.

Renumbered and Amended by Chapter 226, 2015 General Session

## Part 2 Organization

### **63H-8-201 Creation -- Trustees -- Terms -- Vacancies -- Chair -- Powers -- Quorum -- Per diem and expenses -- Annual conflict of interest disclosure statement -- Penalties.**

- (1)
- (a) There is created an independent body politic and corporate, constituting a public corporation, known as the "Utah Housing Corporation."
  - (b) The corporation may also be known and do business as the:
    - (i) Utah Housing Finance Association; and
    - (ii) Utah Housing Finance Agency in connection with a contract entered into when that was the corporation's legal name.
  - (c) No other entity may use the names described in Subsections (1)(a) and (b) without the express approval of the corporation.
- (2) The corporation is governed by a board of trustees composed of the following nine trustees:



- (a) the executive director of the Department of Workforce Services or the executive director's designee;
  - (b) the commissioner of the Department of Financial Institutions or the commissioner's designee;
  - (c) the state treasurer or the treasurer's designee; and
  - (d) six public trustees, who are private citizens of the state, as follows:
    - (i) two people who represent the mortgage lending industry;
    - (ii) two people who represent the home building and real estate industry; and
    - (iii) two people who represent the public at large.
- (3) The governor shall:
- (a) appoint the six public trustees of the corporation with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies; and
  - (b) ensure that:
    - (i) the six public trustees are from different counties and are residents of the state; and
    - (ii) not more than three of the public trustees are members of the same political party.
- (4)
- (a) Except as required by Subsection (4)(b), the governor shall appoint the six public trustees to terms of office of four years each.
  - (b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of corporation trustees are staggered so that approximately half of the board is appointed every two years.
- (5)
- (a) A public trustee of the corporation may be removed from office for cause either by the governor or by an affirmative vote of six trustees of the corporation.
  - (b) When a vacancy occurs in the board of trustees for any reason, the replacement shall be appointed for the unexpired term.
  - (c) A public trustee shall hold office for the term of appointment and until the trustee's successor has been appointed and qualified.
  - (d) A public trustee is eligible for reappointment but may not serve more than two full consecutive terms.
- (6)
- (a) The governor shall select the chair of the corporation.
  - (b) The trustees shall elect from among their number a vice chair and other officers they may determine.
- (7)
- (a) Five trustees of the corporation constitute a quorum for transaction of business.
  - (b) An affirmative vote of at least five trustees is necessary for any action to be taken by the corporation.
  - (c) A vacancy in the board of trustees does not impair the right of a quorum to exercise all rights and perform all duties of the corporation.
- (8) A trustee may not receive compensation or benefits for the trustee'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 according to Sections 63A-3-106 and 63A-3-107.
- (9) A trustee shall, no sooner than January 1 and no later than January 31 of each year during which the trustee holds office on the board of trustees:

- (a) prepare a written conflict of interest disclosure statement that contains a response to each item of information described in Subsection 20A-11-1604(6); and
  - (b) submit the written disclosure statement to the administrator or clerk of the board of trustees.
- (10)
- (a) No later than 10 business days after the date on which the trustee submits the written disclosure statement described in Subsection (9) to the administrator or clerk of the board of trustees, the administrator or clerk shall:
    - (i) post a copy of the written disclosure statement on the corporation's website; and
    - (ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (10)(a)(i).
  - (b) The administrator or clerk shall ensure that the trustee's written disclosure statement remains posted on the corporation's website until the trustee leaves office.
- (11) The administrator or clerk of the board of trustees shall take the action described in Subsection (12) if:
- (a) a trustee fails to timely file the written disclosure statement described in Subsection (9); or
  - (b) a submitted written disclosure statement does not comply with the requirements of Subsection 20A-11-1604(6).
- (12) If a circumstance described in Subsection (11) occurs, the administrator or clerk of the board of trustees shall, within five days after the day on which the administrator or clerk determines that a violation occurred, notify the trustee of the violation and direct the trustee to submit an amended written disclosure statement correcting the problem.
- (13)
- (a) It is unlawful for a trustee to fail to submit or amend a written disclosure statement within seven days after the day on which the trustee receives the notice described in Subsection (12).
  - (b) A trustee who violates Subsection (13)(a) is guilty of a class B misdemeanor.
  - (c) The administrator or clerk of the board of trustees shall report a violation of Subsection (13)(a) to the attorney general.
  - (d) In addition to the criminal penalty described in Subsection (13)(b), the administrator or clerk of the board of trustees shall impose a civil fine of \$100 against a member who violates Subsection (13)(a).
- (14) The administrator or clerk of the board shall deposit a fine collected under this section into the corporation's account to pay for the costs of administering this section.
- (15) In addition to the written disclosure statement described in Subsection (9), a trustee described in Subsection (2)(d) shall also comply with the conflict of interest provisions described in Section 63G-24-301.

Amended by Chapter 443, 2024 General Session

**63H-8-202 Corporation as continuation of agency.**

The corporation is a continuation of the Utah Housing Finance Agency and shall:

- (1) possess all rights, title, privileges, powers, immunities, property, and claims of the former Utah Housing Finance Agency; and
- (2) fulfill and perform all obligations of the former Utah Housing Finance Agency, including obligations relating to outstanding bonds and notes.

Renumbered and Amended by Chapter 226, 2015 General Session

**63H-8-203 President and chief executive officer -- Secretary-treasurer -- Powers and duties -- Power to employ experts -- Power to employ independent legal counsel.**

- (1)
  - (a)
    - (i) The trustees shall appoint a president who is the chief executive officer of the corporation.
    - (ii) The president:
      - (A) may not be a trustee of the corporation;
      - (B) serves at the pleasure of the trustees; and
      - (C) shall receive compensation as set by the trustees.
  - (b) The president, who shall also be the secretary-treasurer, shall:
    - (i) establish bank accounts and other monetary investments in the name of the corporation; and
    - (ii) administer, manage, and direct the affairs and activities of the corporation in accordance with the policies, control, and direction of the trustees.
  - (c) The president shall approve all accounts for salaries, allowable expenses of the corporation, or of any corporation employee or consultant, and expenses incidental to the operation of the corporation.
  - (d) The president shall perform any other duties as may be directed by the trustees in carrying out this chapter.
- (2)
  - (a) The president shall:
    - (i) attend the meetings of the corporation;
    - (ii) keep a record of the proceedings of the corporation; and
    - (iii) maintain and be custodian of:
      - (A) books, documents, and papers filed with the corporation;
      - (B) the minute book or journal of the corporation; and
      - (C) the corporation's official seal.
  - (b) The president may cause copies to be made of minutes and other records and documents of the corporation and may give certificates under seal of the corporation to the effect that those copies are true copies, and a person dealing with the corporation may rely upon those certificates.
- (3)
  - (a) The corporation may employ or engage technical experts, independent professionals and consultants, and other officers, agents, or employees, permanent or temporary, as it considers necessary to carry out the efficient operation of the corporation, and shall determine their qualifications, duties, and compensation.
  - (b) The trustees may delegate to one or more of the corporation's agents, representatives, or employees administrative duties that the trustees consider proper.
- (4) The corporation may employ and retain independent legal counsel.

Renumbered and Amended by Chapter 226, 2015 General Session

**63H-8-204 Relation to certain acts.**

- (1) The corporation is exempt from:
  - (a) Title 51, Chapter 5, Funds Consolidation Act;
  - (b) Title 51, Chapter 7, State Money Management Act;
  - (c) Title 63A, Utah Government Operations Code;
  - (d) Title 63G, Chapter 6a, Utah Procurement Code;
  - (e) Title 63J, Chapter 1, Budgetary Procedures Act;

- (f) Title 63J, Chapter 2, Revenue Procedures and Control Act; and
  - (g) Title 63A, Chapter 17, Utah State Personnel Management Act.
- (2) The corporation shall comply with:
- (a) Title 52, Chapter 4, Open and Public Meetings Act;
  - (b) Section 67-3-12; and
  - (c) Title 63G, Chapter 2, Government Records Access and Management Act.

Amended by Chapter 84, 2021 General Session  
Amended by Chapter 345, 2021 General Session

**63H-8-205 Disclosure of interest.**

- (1) A trustee, officer, or employee of the corporation who has, will have, or later acquires an interest, direct or indirect, in a transaction with the corporation shall immediately disclose the nature and extent of that interest in writing to the corporation as soon as the trustee, officer, or employee has knowledge of the actual or prospective interest.
- (2)
- (a) This disclosure shall be entered upon the minutes of the corporation.
  - (b) Upon the disclosure, that trustee, officer, or employee may participate in any action by the corporation authorizing the transaction.

Renumbered and Amended by Chapter 226, 2015 General Session

**63H-8-206 Officer or employee -- No forfeiture of office or employment.**

Notwithstanding the provisions of any other law, no officer or employee of this state forfeits a state office or state employment by accepting an appointment or by serving as a trustee of the corporation.

Renumbered and Amended by Chapter 226, 2015 General Session

**Part 3**  
**Corporation Duties and Powers**

**63H-8-301 Corporation -- Powers.**

The corporation has and may exercise all powers necessary or appropriate to carry out the purposes of this chapter, including:

- (1) to have perpetual succession as a body politic and corporate, constituting a public corporation, and to adopt, amend, and repeal rules, policies, and procedures for the regulation of its affairs and the conduct of its business;
- (2) to sue and be sued in its own name;
- (3) to have an official seal and power to alter that seal at will;
- (4) to maintain an office within the state at a place the corporation designates;
- (5) to adopt, amend, and repeal bylaws and rules that are consistent with this chapter to carry into effect the powers and purposes of the corporation and the conduct of its business;
- (6) to make and execute contracts and other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions under this chapter, including contracts or agreements for the servicing and originating of mortgage loans;

- (7) to employ advisers, consultants, and agents, including financial experts, independent legal counsel, and other advisers, consultants, and agents as necessary in the corporation's judgment and to fix their compensation;
- (8) to procure insurance in amounts and from insurers as determined by the corporation against any loss:
  - (a) in connection with its property and other assets, including mortgage loans; and
  - (b) resulting from the failure of an officer, employee, or agent of the corporation in a position of public or private trust;
- (9) to borrow money and to issue bonds and notes or other evidences of indebtedness as provided in this chapter;
- (10) to receive and accept aid or contributions from any source of money, property, labor, or other things of value to be held, used, loaned, granted, and applied to carry out the purposes of this chapter subject to the conditions, if any, upon which the grants and contributions are made, including gifts or grants from a department, agency, or instrumentality of the United States or of this state for any purpose consistent with this chapter;
- (11) to enter into agreements with a local public body, a housing sponsor, a department, agency, or instrumentality of the United States, another state, or this state, or with mortgagors and mortgage lenders for the purpose of administering contracts that provide housing assistance payments, servicing mortgage loans, or planning and regulating and providing for the financing and refinancing, construction, rehabilitation, leasing, management, maintenance, operation, sale, or other disposition of residential housing undertaken with the assistance of the corporation under this chapter;
- (12) to exercise all of its remedies following the default under a mortgage loan, including:
  - (a) proceeding with a foreclosure action or private sale to obtain title to the real and personal property held as collateral and taking assignments of leases and rentals;
  - (b) to own, lease, clear, reconstruct, rehabilitate, repair, maintain, manage, and operate this property in preparation for its disposition; and
  - (c) to assign, encumber, sell, or otherwise dispose of this property;
- (13) to invest money not required for immediate disbursement, including money held in reserve, in a manner consistent with applicable provisions of Title 51, Chapter 7, State Money Management Act;
- (14) to provide technical and financial assistance to housing sponsors and advisory committees in the development or operation of housing for low and moderate income persons;
- (15) to gather and distribute data and information concerning the housing needs of low and moderate income families within the various communities of this state;
- (16) to the extent permitted under a contract with the holders of bonds, notes, and other obligations of the corporation, to consent to a modification with respect to rate of interest, time and payment of an installment of principal or interest security, or other term of a contract, mortgage, mortgage loan, mortgage loan commitment, contract, or agreement of any kind to which the corporation is a party;
- (17) to the extent permitted under a contract with the holders of bonds, notes, and other obligations of the corporation, to enter into contracts with a mortgagor or housing sponsor containing provisions enabling the mortgagor to reduce the rental or carrying charges to persons unable to pay the regular schedule of charges where, by reason of other income or payment by a department, agency, or instrumentality of the United States or of the state, the reduction can be made without jeopardizing the economic stability of residential housing being financed;
- (18) to acquire property within the state for the purpose of holding it for subsequent disposition to a housing sponsor or other entity that can use it for residential housing for low and moderate

- income persons, except that if no person can be found to use it in this manner, the corporation may dispose of the property to any person;
- (19) to purchase, own and operate residential housing for the benefit, in whole or in part, of low and moderate income persons, if the corporation makes reasonable efforts to sell that residential housing to a housing sponsor;
  - (20) to incorporate or form one or more subsidiaries of the corporation for the purpose of carrying out any of the powers of the corporation and accomplishing any of the purposes of the corporation, to invest in and provide financial assistance to these subsidiaries, to borrow from these subsidiaries, to guarantee the obligations of these subsidiaries, and to enter into agreements with these subsidiaries to carry out any of the corporation's powers under this chapter;
  - (21) to enter into partnership and limited liability company agreements, to purchase and sell interests in housing sponsors, to serve as general partner of a partnership, and to serve as a manager of a limited liability company to carry out any of the corporation's powers under this chapter;
  - (22) to require that persons receiving a mortgage loan or financial assistance from the corporation subject the property involved to restrictive covenants that shall be considered to be running with the land, regardless of whether or not the corporation enjoys privity of estate or whether or not the covenant touches and concerns the burdened property;
  - (23) to enter into management agreements with a person or entity for the performance by the person or entity for the corporation of any of its functions or powers, with terms and conditions as may be mutually agreeable;
  - (24) to sell, at public or private sale, with or without public bidding, a mortgage loan or other obligation held by the corporation;
  - (25) to sell or convey real property owned by the corporation to low or moderate income persons and housing sponsors, without consideration if the sale or conveyance will inure primarily to the benefit of low or moderate income persons living in a housing development;
  - (26) upon making a determination that the financial status of a housing development will jeopardize an economic interest of the corporation in the housing development, to assume managerial and financial control of the property or the owner and to supervise and prescribe the activities of the property or the owner in a manner and under terms and conditions as the corporation may stipulate in a contract;
  - (27) to supervise housing sponsors of housing developments;
  - (28) to service mortgage loans secured by property in Utah or another state;
  - (29) to give consideration to activities that promote the availability of accessible housing; and
  - (30) to do an act necessary or convenient to the exercise of the corporation's powers under this chapter.

Renumbered and Amended by Chapter 226, 2015 General Session

**63H-8-302 Corporation -- Additional powers.**

- (1) To accomplish the declared purposes of this chapter, the corporation has the following powers:
  - (a) to purchase mortgage loans originated by mortgage lenders or local public bodies made for the purpose of financing the construction, development, rehabilitation, refinancing, or purchase of residential housing for low and moderate income persons;
  - (b) to make mortgage loans and to provide financial assistance to housing sponsors for the purpose of financing the construction, development, rehabilitation, refinancing, or purchase of residential housing for low and moderate income persons;

- (c) to make mortgage loans and provide financial assistance to housing sponsors for the purpose of financing the operations of a housing development that are necessary or desirable to enable the housing development to remain available as residential housing for low and moderate income persons, whether or not the housing development has been financed by the corporation;
  - (d) to provide financial assistance to any housing authority created under Title 35A, Chapter 8, Part 4, Housing Authorities, which housing authorities may enter into commitments for and accept loans for a housing project as defined in Section 35A-8-401; and
  - (e) to make mortgage loans and to provide financial assistance to low and moderate income persons for the construction, rehabilitation, refinancing, or purchase of residential housing.
- (2) The corporation may issue bonds to purchase loans under Subsection (1)(a) only after a determination by the corporation that the loans are not otherwise available upon reasonably equivalent terms and conditions from private lenders.
- (3) Loans for owner-occupied housing made under Subsection (1)(a) may not include a penalty for prepayment.
- (4) The corporation shall make rules or adopt policies and procedures to govern the activities authorized under this section, including:
- (a) procedures for the submission of requests or the invitation of proposals for the purchase and sale of mortgage loans and the making of mortgage loans;
  - (b) rates, fees, charges, and other terms and conditions of originating or servicing mortgage loans in order to protect against a realization of an excessive financial return or benefit by the originator or servicer;
  - (c) the type and amount of collateral, payment bonds, performance bonds, or other security to be provided for construction loans made by the corporation;
  - (d) the nature and amounts of fees to be charged by the corporation to provide for expenses and reserves of the corporation;
  - (e) procedures allowing the corporation to prohibit persons who fail to comply with the rules of the corporation with respect to the operations of a program of the corporation from participating, either directly or indirectly, in the programs of the corporation;
  - (f) the terms and conditions under which the corporation may purchase and make mortgage loans under each program of the corporation;
  - (g) the terms and conditions under which the corporation may provide financial assistance under each program of the corporation;
  - (h) the terms and conditions under which the corporation may guarantee mortgage loans under each program of the corporation; and
  - (i) any other matters related to the duties or exercise of powers under this section.
- (5)
- (a)
    - (i) The trustees of the corporation shall elect the directors, trustees, and members, if any, of each subsidiary.
    - (ii) Service by a trustee of the corporation in any of these capacities does not constitute a conflict of interest for any purpose.
    - (iii) The corporation may delegate any of its powers and duties under this chapter to any subsidiary.
    - (iv) Subsidiaries shall constitute legal entities separate and distinct from each other, the corporation, and the state.
  - (b) A note, bond, and other obligation of a subsidiary shall contain on its face a statement to the effect that:

- (i) the subsidiary is obligated to pay the note, bond, or other obligation solely from the revenues or other funds of the subsidiary;
  - (ii) neither the corporation, nor the state, nor any of its political subdivisions is obligated to pay the note, bond, or other obligation; and
  - (iii) neither the faith and credit nor the taxing power of the state or its political subdivisions is pledged to the payment of principal, the redemption price of, or the interest on, the note, bond, or other obligation.
- (c) Upon dissolution of a subsidiary of the corporation, any assets shall revert to the corporation or to a successor to the corporation or, failing this succession, to the state.
- (6)
- (a) The corporation may, with the approval of the state treasurer:
    - (i) enter into interest rate contracts that its trustees determine are necessary, convenient, or appropriate for the control or management of debt or for the cost of servicing debt; and
    - (ii) use corporation funds to satisfy its payment obligations under those contracts.
  - (b) An interest rate contract may contain payment, security, default, termination, remedy, and other terms and conditions that the trustees consider appropriate.
  - (c) An interest rate contract and funds used in connection with an interest rate contract may not be considered a deposit or investment.

Amended by Chapter 164, 2015 General Session

Renumbered and Amended by Chapter 226, 2015 General Session

**63H-8-303 Power to issue mortgage credit certificates -- Impact of federal legislation on tax exempt status of corporation bonds.**

- (1) In order to accomplish the purposes of this chapter the corporation may issue mortgage credit certificates under 26 U.S.C. Sec. 25, as amended, and has the sole responsibility for issuing or approving the issuance of mortgage credit certificates allowable to the state.
- (2) A power granted to the corporation by this chapter may not be diminished by the enactment of federal legislation that would cause the interest on bonds, notes, or other obligations of the corporation to be subject to taxation under federal law.
- (3) An exemption from state taxation granted in this chapter is not affected by federal legislation described under Subsection (2).

Renumbered and Amended by Chapter 226, 2015 General Session

**63H-8-304 Power to borrow money and make loans -- Issuance of notes and bonds -- Mortgage backed securities.**

- (1) The corporation has the power to borrow money and to issue its notes, bonds, and other obligations in principal amounts as the corporation determines is necessary to provide sufficient money for:
  - (a) the purchase of mortgage loans from mortgage lenders;
  - (b) the making of construction loans;
  - (c) the making of loans to housing authorities;
  - (d) the payment of interest on bonds, notes, and other obligations of the corporation;
  - (e) the establishment of reserves to secure the bonds, notes, and other obligations;
  - (f) the making of mortgage loans;
  - (g) the making of loans to mortgage lenders or other lending institutions with respect to multifamily residential rental housing under terms and conditions requiring the proceeds of



these loans to be used by these mortgage lenders or other lending institutions for the making of loans for new multifamily residential rental housing or the acquisition or rehabilitation of existing multifamily residential rental housing;

- (h) the making of loans for the rehabilitation of residential housing; and
- (i) all other expenditures of the corporation necessary or convenient to carry out its purposes and powers.

(2)

(a) The corporation may issue notes to renew notes and bonds to pay notes, including interest, and whenever it considers refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund bonds then outstanding and partly for any of its corporate purposes.

(b) The refunding bonds may be:

- (i) sold and the proceeds applied to the purchase, redemption, or payment of the bonds to be refunded; or
- (ii) exchanged for the bonds to be refunded.

(3)

(a) Except as otherwise expressly provided by the corporation, every issue of the corporation's notes or bonds are general obligations of the corporation payable solely by money of the corporation, subject only to any agreements with the holders of particular notes or bonds pledging any particular money.

(b) These bonds or notes may be additionally secured by a pledge of:

- (i) a grant or contribution from the federal government or a corporation, association, institution, or person; or
- (ii) money, income, or revenues of the corporation from any source.

(4)

(a) The notes and bonds shall be authorized by resolution or resolutions of the corporation, shall bear the date or dates, and shall mature at the time or times as the resolution or resolutions may provide, except that no note, including any renewals thereof, shall mature more than five years from the date of its original issue, and no bond shall mature more than 50 years from the date of its issue, as provided by the resolution.

(b) The notes and bonds shall bear interest at the rate or rates, including variations in the rates, be in denominations, be in a form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in a medium of payment, at the place or places, and be subject to the terms of redemption, including redemption prior to maturity, as provided by the resolution.

(c) The notes and bonds of the corporation may be sold by the corporation at public or private sale, and at the price or prices determined by the corporation.

(d)

(i) The notes and bonds may bear interest at a variable interest rate as provided by the resolution.

(ii) The resolution may establish a method, formula, or index by which the interest rate on the notes and bonds is determined.

(iii) The resolution may delegate to one or more officers of the corporation the authority to:

(A) approve the final interest rates or prices, principal amount, maturities, redemption features, or other terms of the notes or bonds; and

(B) approve and execute all documents relating to the issuance of the notes or bonds.

(e) In connection with the notes and bonds, the corporation may authorize and enter into agreements or other arrangements with financial, banking, and other institutions for letters

of credit, standby letters of credit, surety bonds, reimbursement agreements, remarketing agreements, indexing agreements, tender agent agreements, and other agreements with respect to:

- (i) securing the notes and bonds;
  - (ii) enhancing the marketability and credit worthiness of the notes and bonds;
  - (iii) determining a variable interest rate on the notes and bonds; and
  - (iv) paying from any legally available source, which may include the proceeds of the notes and bonds, fees, charges, and other amounts coming due with respect to these agreements.
- (5) A resolution authorizing notes or bonds or their issue may contain provisions, which are a part of the contract or contracts with their holders, as to:
- (a) pledging all or part of the revenues to secure the payment of the notes or bonds or of any issue of the notes or bonds, subject to the agreements with noteholders or bondholders as may then exist;
  - (b) pledging all or part of the assets of the corporation, including mortgages and obligations securing the assets, to secure the payment of the notes or bonds or of any issue of notes or bonds, subject to the agreements with noteholders or bondholders as may then exist;
  - (c) the use and disposition of the gross income from mortgages owned by the corporation and payment of principal of mortgages owned by the corporation;
  - (d) the setting aside of reserves or sinking funds and their regulation and disposition;
  - (e) limitations on the purpose to which the proceeds of sale of notes or bonds may be applied and pledging the proceeds to secure the payment of the notes or bonds or of their issue;
  - (f) limitations on the issuance of additional notes or bonds, including:
    - (i) the terms upon which additional notes or bonds may be issued and secured; and
    - (ii) the refunding of outstanding or other notes or bonds;
  - (g) the procedure, if any, by which the terms of a contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds to which the holders must consent, and the manner in which the consent may be given;
  - (h) limitations on the amount of money to be expended by the corporation for operating expenses of the corporation;
  - (i) vesting in a trustee or trustees the property, rights, powers, and duties in trust as determined by the corporation, which may include any or all of the rights, powers, and duties of the trustee appointed by the noteholders or bondholders under this chapter and limiting or abrogating the right of noteholders or bondholders to appoint a trustee under this chapter or limiting the rights, powers, and duties of the trustee;
  - (j)
    - (i) defining the acts or omissions to act that constitute a default in the obligations and duties of the corporation to the holders of the notes or bonds and providing for the rights and remedies of the holders of the notes or bonds in the event of default, including as a matter of right the appointment of a receiver;
    - (ii) but the rights and remedies may not be inconsistent with the general laws of the state and other provisions of this chapter; or
  - (k) any other matters, of like or different character, which in any way affect the security or protection of the holders of the notes or bonds.
- (6)
- (a) A pledge made by the corporation is valid, enforceable, and binding from the time when the pledge is made and has a lien priority based on the time of grant or, if more than one lien is granted at a given time, as set forth in the resolution or instrument under which the pledge is made.

- (b)
  - (i) The revenues, money, or property pledged and then received by the corporation are immediately subject to the lien of the pledge and constitute a perfected lien without any physical delivery or further act.
  - (ii) The lien of the pledge is valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the corporation, irrespective of whether the parties have notice of the lien.
- (c) Neither the resolution nor any other instrument by which a pledge is created need be recorded.
- (d) Notwithstanding the provisions of Title 70A, Chapter 9a, Uniform Commercial Code - Secured Transactions, the corporation shall comply with the provisions of Title 11, Chapter 14, Part 5, Government Security Interests, for the creation, perfection, priority, and enforcement of a security interest created by the corporation.
- (7) The corporation, subject to the agreements with noteholders or bondholders as may then exist, has power to use available money to purchase notes or bonds of the corporation, which shall immediately be cancelled unless held for resale, at a price not exceeding:
  - (a) if the notes or bonds are redeemable at the time of the purchase, the applicable redemption price plus accrued interest to the next interest payment on the notes or bonds; or
  - (b) if the notes or bonds are not redeemable at the time of the purchase, the redemption price applicable on the first date after the purchase that the notes or bonds are subject to redemption plus accrued interest to that date.
- (8)
  - (a) The notes and bonds shall be secured by a trust indenture by and between the corporation and a corporate trustee, which may be a bank having the power of a trust company or a trust company within or without the state.
  - (b) The trust indenture may contain provisions for protecting and enforcing the rights and remedies of the noteholders or bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the corporation in relation to the exercise of its corporate powers and the custody, safeguarding, and application of all money.
  - (c) The corporation may provide by the trust indenture for the payment of the proceeds of the notes or bonds and the revenues to the trustee under the trust indenture or other depository, and for the method of their disbursement, with any safeguards and restrictions as it may determine.
  - (d) All expenses incurred in carrying out the trust indenture may be treated as a part of the operating expenses of the corporation.
  - (e) If the notes or bonds are secured by a trust indenture, the noteholders or bondholders may not have authority to appoint a separate trustee to represent them.
- (9) Whether or not the notes and bonds are of the form and character as to be negotiable instruments under the terms of the Uniform Commercial Code, the notes and bonds are negotiable instruments within the meaning of and for all the purposes of the Uniform Commercial Code, subject only to the provisions of the notes and bonds relating to registration.
- (10) In the event that any of the trustees or officers of the corporation cease to be trustees or officers of the corporation prior to the delivery of any notes or bonds or coupons signed by the trustees or officers, signatures or facsimiles of trustees or officers signatures are valid and sufficient for all purposes, the same as if the trustees or officers had remained in office until the delivery.

- (11) A trustee or officer of the corporation executing the notes or bonds issued under this chapter is not subject to personal liability or accountability by reason of the issuance of the notes or bonds.
- (12) The corporation may provide for the replacement of lost, destroyed, or mutilated bonds or notes.
- (13) The corporation may sell mortgage loans it has purchased or made for cash or it may exchange mortgage loans for mortgage-backed securities and sell the mortgage-backed securities for cash.

Renumbered and Amended by Chapter 226, 2015 General Session

#### **Part 4**

### **Corporation Assets and Obligations**

#### **63H-8-401 Corporation money -- Depositing and paying out -- Power to contract with holders of notes and bonds -- Money held in trust.**

- (1)
  - (a) All money of the corporation, except as otherwise authorized or provided in this chapter, shall be deposited as soon as practicable in a separate account or accounts in banks or trust companies organized under state or federal laws.
  - (b) The money in these accounts shall be paid out on checks or drafts signed by the president or other officers or employees of the corporation or transferred electronically as authorized by the corporation.
  - (c) All deposits of money shall, if required by the corporation, be secured in a manner as the corporation determines to be prudent, and banks and trust companies are authorized to give security for the deposits.
- (2)
  - (a) Notwithstanding the provisions of this section, the corporation may contract with the holders of its notes or bonds as to the custody, collection, securing, investment, and payment of any money of the corporation and of any money held in trust or otherwise for the payment of notes or bonds, and to carry out that contract.
  - (b) Money held in trust or otherwise for the payment of notes or bonds or in any way to secure notes or bonds and deposits of money may be secured in the same manner as money of the corporation, and banks and trust companies may give security for the deposits.

Renumbered and Amended by Chapter 226, 2015 General Session

#### **63H-8-402 State pledge to holders of notes or bonds.**

- (1) The state pledges and agrees with the holders of notes or bonds issued under this chapter that the state will not limit or alter the rights hereby vested in the corporation to fulfill the terms of agreements made with the holders of the notes or bonds or in any way impair the rights and remedies of the holders until the notes and bonds, together with their interest, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders, are fully met and discharged.
- (2) The corporation may include this pledge and agreement of the state in any agreement with the holders of the notes or bonds.

Renumbered and Amended by Chapter 226, 2015 General Session

**63H-8-403 Notes, bonds, other obligations -- Not a debt liability -- Expenses payable from funds provided -- Corporation without authority to incur liability on behalf of state -- Relationship to Governmental Immunity Act of Utah.**

- (1)
  - (a)
    - (i) Notes, bonds, and other obligations issued under this chapter are not a debt or liability of the state or of a county, city, town, school district, or other political subdivision of the state.
    - (ii) The notes, bonds, or other obligations do not constitute the loaning of credit of the state or of a county, city, town, school district, or other political subdivision of the state.
    - (iii) The notes, bonds, or other obligations are not payable from money other than that of the corporation.
  - (b) All notes, bonds, or other obligations shall contain on their face a statement to the effect that:
    - (i) the corporation shall pay the note, bond, or obligation solely from the revenues or other money of the corporation;
    - (ii) neither the state nor any of its political subdivisions are obligated to pay the note, bond, or obligation; and
    - (iii) neither the faith and credit nor the taxing power of the state or any of its political subdivisions are pledged to the payment of principal, redemption price of, or the interest on, the notes, bonds, or other obligations.
- (2) All expenses incurred in carrying out this chapter are payable solely from funds provided under this chapter, and nothing in this chapter authorizes the corporation to incur indebtedness or liability on behalf of or payable by the state or any of its political subdivisions.
- (3)
  - (a) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies to the corporation.
  - (b) Notwithstanding Subsection (3)(a), a claim may not be brought against the state, a public official or employee of the state, another public entity, or a public official or employee of another public entity, based on or arising from:
    - (i) a failure to fulfill a contractual obligation of the corporation;
    - (ii) an act or failure to act by the corporation or its trustees, officers, employees, agents, or representatives; or
    - (iii) failure of the corporation to comply with the requirements of any law or regulation.
  - (c) The provisions of Subsection (3)(b) do not apply to a claim of a current or former officer or employee of the corporation for retirement or insurance benefits.

Renumbered and Amended by Chapter 226, 2015 General Session

**63H-8-404 Corporation property, notes, and bonds -- Tax exemption except corporate franchise tax.**

- (1) Property acquired or held by the corporation under this chapter is declared to be public property used for essential public and governmental purposes.
- (2) The property, its income, and notes and bonds issued under this chapter, the interest payable on the notes and bonds, and income derived from the notes and bonds are exempt from taxation of every kind by the state, a county, a municipality, and any other political subdivision of the state, except for the corporate franchise tax.

Renumbered and Amended by Chapter 226, 2015 General Session

**63H-8-405 Corporation notes, bonds, obligations -- Legal investments.**

- (1) The notes, bonds, and other obligations issued under the authority of this chapter are securities in which all public officers and public bodies of the state and its political subdivisions, all banks, bankers, savings banks, trust companies, credit unions, savings and loan associations, building and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies and insurance associations, and others carrying on an insurance business, and all administrators, executors, guardians, trustees, and other fiduciaries, pension, profit-sharing and retirement funds, and all other persons who may now or may later be authorized to invest in notes, bonds, or other obligations of the state, may properly and legally invest any funds, including capital belonging to them or within their control.
- (2) These notes, bonds, and other obligations are securities that may properly and legally be deposited with and received by any state, county, or municipal officer, or agency of the state for any purpose for which the deposit of notes, bonds, or other obligations of the state is now or may later be authorized by law.

Renumbered and Amended by Chapter 226, 2015 General Session

**63H-8-406 Annual report to governor and Legislature -- Contents -- Audits.**

- (1)
  - (a) The corporation shall, following the close of each fiscal year, submit, by October 1, an annual written report of its activities for the preceding year to the governor and the Retirement and Independent Entities Interim Committee.
  - (b) Each report shall set forth a complete operating and financial statement of the corporation during the fiscal year it covers.
  - (c) At least once each year, an independent certified public accountant shall audit the books and accounts of the corporation.
  - (d) A complete copy of each annual audit report shall be:
    - (i) included in the report to the governor and the Legislature under Subsection (2);
    - (ii) available for public inspection at the corporation's office; and
    - (iii) made available to the public on the corporation's website.
- (2) The corporation shall, each fiscal year, submit a budget of its operations to the Legislature and the governor.
- (3)
  - (a) The corporation shall form an audit committee consisting of no less than three trustees.
  - (b) The audit committee has exclusive authority to:
    - (i) select and engage the independent certified public accountant to audit the corporation; and
    - (ii) supervise the audit.
- (4) The corporation shall provide additional information upon request by the governor, the Legislature, a legislative committee, the legislative auditor general, or the state auditor.

Renumbered and Amended by Chapter 226, 2015 General Session

**63H-8-407 Act not restriction on powers of corporation -- Construed as alternative -- Bonds, notes, obligations issued need not comply with other laws.**

- (1)

- (a) This chapter and its contents are not a restriction or limitation upon other powers that the corporation has under other laws of the state.
- (b) This chapter is cumulative to the powers referenced in Subsection (1)(a).
- (2) This chapter provides a complete, additional, and alternative method for doing the things authorized in this chapter and is supplemental and additional to powers conferred by other laws.
- (3) The issuance of bonds, notes, and other obligations under this chapter need not comply with the requirements of any other state law applicable to the issuance of bonds, notes, and other obligations.
- (4) Proceedings, notice, or approval are not required for the issuance of bonds, notes, and other obligations or an instrument as security for them, except as provided in this chapter.

Renumbered and Amended by Chapter 226, 2015 General Session

**63H-8-408 Allocation to corporation of mortgage bonds qualified under Internal Revenue Code.**

- (1) The entire amount of qualified mortgage bonds allowable to Utah under 26 U.S.C. Sec. 143, and the regulations issued under the code, is allocated to the Utah Housing Corporation which, for purposes of 26 U.S.C. Sec. 143 and the regulations under that section, has sole responsibility for issuing or approving the issuance of qualified mortgage bonds allowable to Utah.
- (2) The corporation is not required to issue or approve the issuance of qualified mortgage bonds equal in amount to the amount allowed Utah.
- (3) Housing authorities in counties, cities, and towns in Utah may apply under 26 U.S.C. Sec. 143 to the corporation for funding of housing programs within their respective jurisdictions.

Renumbered and Amended by Chapter 226, 2015 General Session

**63H-8-409 Allocation of qualified mortgage bonds to counties, cities, and towns.**

- (1)
  - (a) The corporation may allocate all or part of the amount to one or more counties, cities, and towns within the state or to any authority or agency of any entity that is authorized to issue qualified mortgage bonds.
  - (b) An allocation may not be made under this section unless:
    - (i) the entity applies to the corporation for an allocation; and
    - (ii) the corporation finds that the proposed allocation would be in the best interest of the state.
  - (c) The corporation shall take the following factors into consideration before making its finding:
    - (i) the number of "low and moderate income persons," within the meaning of the Utah Housing Corporation Act, within a given area;
    - (ii) the likelihood that the proposed issuing entity would use the allocation to issue qualified mortgage bonds in a timely manner;
    - (iii) the cost to the proposed issuing entity to issue the bonds relative to the cost to the corporation to issue the bonds;
    - (iv) any special costs or benefits which would result from the issuance of the bonds by the proposed issuing entity;
    - (v) the capability of the proposed issuing entity to administer an issuance of qualified mortgage bonds;

- (vi) the needs of the proposed issuing entity relative to the needs of other counties, cities, and towns;
  - (vii) the effects of the proposed allocation on counties, cities, and towns which are not served by the proposed issuing entity; and
  - (viii) any other factors the corporation considers relevant to a determination of what is in the best interest of the state with regard to single family housing.
- (2)
- (a) The corporation shall specify the time within which an issuing entity shall use the allocation.
  - (b) Any part of the allocation which is not used within the time prescribed automatically terminates.
  - (c) The corporation may extend the time initially prescribed for use of the allocation.

Renumbered and Amended by Chapter 226, 2015 General Session

**63H-8-410 Low-income housing tax credits.**

- (1) The corporation is designated the "Housing Credit Agency" for the state within the meaning of 26 U.S.C. Sec. 42(h) and for the purposes of carrying out 26 U.S.C. Sec. 42 and regulations promulgated under that section.
- (2) The entire state housing credit ceiling for each calendar year is allocated to the corporation.
- (3) The allocation of the state housing credit ceiling shall be made under the state's qualified allocation plan within the meaning of 26 U.S.C. Sec. 42(m), as amended, and as provided in Subsection (4).
- (4) The corporation may amend the state's qualified allocation plan as necessary to comply with revisions to the low-income housing tax credit program under 26 U.S.C. Sec. 42, or as may be necessary to further the goals and purposes of the low-income housing tax credit program for the state.
- (5) The corporation, or a subsidiary of the corporation, may have a direct or indirect ownership interest in, and may materially participate in the operation and management of, a housing development or program that has received an allocation of the state housing credit ceiling.

Renumbered and Amended by Chapter 226, 2015 General Session

**63H-8-411 Asset disposition upon dissolution of corporation.**

Upon dissolution of the corporation:

- (1) all liabilities and obligations of the corporation, including obligations to bondholders, shall be paid, satisfied, discharged, or adequately provided for; and
- (2) all remaining money, property, rights, claims, and interests of the corporation shall revert or be conveyed to the state.

Renumbered and Amended by Chapter 226, 2015 General Session

**Part 5**  
**First-Time Homebuyer Assistance Program**

**63H-8-501 Definitions.**

As used in this part:



- (1)
  - (a) "First-time homebuyer" means an individual who satisfies:
    - (i) the three-year requirement described in Section 143(d) of the Internal Revenue Code of 1986, as amended, and any corresponding federal regulations; and
    - (ii) requirements made by the corporation by rule, as described in Section 63H-8-502.
  - (b) "First-time homebuyer" includes a single parent, as defined by the corporation by rule made as described in Section 63H-8-502, who would meet the three-year requirement described in Subsection (1)(a)(i) but for a present ownership interest in a principal residence in which the single parent:
    - (i) had a present ownership interest with the single parent's former spouse during the three-year period;
    - (ii) resided while married during the three-year period; and
    - (iii) no longer:
      - (A) has a present ownership interest; or
      - (B) resides.
- (2) "Home equity amount" means the difference between:
  - (a)
    - (i) in the case of a sale, the sales price for which the qualifying residential unit is sold by the recipient in a bona fide sale to a third party with no right to repurchase less an amount up to 1% of the sales price used for seller-paid closing costs; or
    - (ii) in the case of a refinance, the current appraised value of the qualifying residential unit; and
  - (b) the total payoff amount of any qualifying mortgage loan that was used to finance the purchase of the qualifying residential unit.
- (3) "Program" means the First-Time Homebuyer Assistance Program created in Section 63H-8-502.
- (4) "Program funds" means money appropriated for the program.
- (5) "Qualifying mortgage loan" means a mortgage loan that:
  - (a) is purchased by the corporation; and
  - (b) is subject to a document that is recorded in the office of the county recorder of the county in which the residential unit is located.
- (6) "Qualifying residential unit" means a residential unit that:
  - (a) is located in the state;
  - (b) is new construction or newly constructed but not yet inhabited;
  - (c) is financed by a qualifying mortgage loan;
  - (d) is owner-occupied within 60 days of purchase, or in the case of a two-unit dwelling, at least one unit is owner-occupied within 60 days of purchase; and
  - (e) is purchased for an amount that does not exceed:
    - (i) \$450,000; or
    - (ii) if applicable, the maximum purchase price established by the corporation under Subsection 63H-8-502(6).
- (7) "Recipient" means a first-time homebuyer who receives program funds.
- (8)
  - (a) "Residential unit" means a house, condominium, townhome, or similar residential structure that serves as a one-unit dwelling or forms part of a two-unit dwelling.
  - (b) "Residential unit" includes a manufactured home or modular home that is attached to a permanent foundation.

Amended by Chapter 431, 2024 General Session

**63H-8-502 First-Time Homebuyer Assistance Program.**

- (1) There is created the First-Time Homebuyer Assistance Program administered by the corporation.
- (2) Subject to appropriations from the Legislature, the corporation shall distribute program funds to:
  - (a) first-time homebuyers to provide support for the purchase of qualifying residential units; and
  - (b) reimburse the corporation for a distribution of funds under Subsection (2)(a) that took place on or after July 1, 2023.
- (3) The maximum amount of program funds that a first-time homebuyer may receive under the program is \$20,000.
- (4)
  - (a) A recipient may use program funds to pay for:
    - (i) the down payment on a qualifying residential unit;
    - (ii) closing costs associated with the purchase of a qualifying residential unit;
    - (iii) a permanent reduction in the advertised par interest rate on a qualifying mortgage loan that is used to finance a qualifying residential unit; or
    - (iv) any combination of Subsections (4)(a)(i), (ii), and (iii).
  - (b) The corporation shall direct the disbursement of program funds for a purpose authorized in Subsection (4)(a).
  - (c) A recipient may not receive a payout or distribution of program funds upon closing.
- (5) The builder or developer of a qualifying residential unit may not increase the price of the qualifying residential unit on the basis of program funds being used towards the purchase of that qualifying residential unit.
- (6)
  - (a) In accordance with rules made by the corporation under Subsection (9), the corporation may adjust the maximum purchase price of a qualifying residential unit for which a first-time homebuyer qualifies to receive program funds in order to reflect current market conditions.
  - (b) In connection with an adjustment made under Subsection (6)(a), the corporation may establish one or more maximum purchase prices corresponding by residential unit type, geographic location, or any other factor the corporation considers relevant.
  - (c) The corporation may adjust a maximum purchase price under this Subsection (6) no more frequently than once each calendar year.
- (7)
  - (a) Except as provided in Subsection (7)(b), if the recipient sells the qualifying residential unit or refinances the qualifying mortgage loan that was used to finance the purchase of the qualifying residential unit before the end of the original term of the qualifying mortgage loan, the recipient shall repay to the corporation an amount equal to the lesser of:
    - (i) the amount of program funds the recipient received; or
    - (ii) 50% of the recipient's home equity amount.
  - (b) Subsection (7)(a) does not apply to a qualifying mortgage loan that is refinanced with a new qualifying mortgage loan if any subordinate qualifying mortgage loan, or loan from program funds used on the purchase of the qualifying residential unit, is resubordinated only to the new qualifying mortgage loan.
- (8) Any funds repaid to the corporation under Subsection (7) shall be used for program distributions.
- (9) The corporation shall make rules governing the application form, process, and criteria the corporation will use to distribute program funds to first-time homebuyers, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

- (10) The corporation may use up to 5% of program funds for administration.
- (11) The corporation shall report annually to the Social Services Appropriations Subcommittee on disbursements from the program and any adjustments made to the maximum purchase price or maximum purchase prices of a qualifying residential unit under Subsection (6).

Amended by Chapter 431, 2024 General Session

## **Chapter 9**

### **Oversight of Independent Entities**

#### **63H-9-101 Definitions.**

As used in this chapter:

- (1) "Best practices toolbox" means the collection of resources for governmental entities provided on the website of the Office of the Legislative Auditor General that includes a best practice self-assessment and other resources, tools, surveys, and reports designed to help government organizations better serve the citizens of the state.
- (2) "Consensus group" means the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst.
- (3)
  - (a) "Independent entity" means an entity that:
    - (i) has a public purpose relating to the state or its citizens;
    - (ii) is individually created by the state;
    - (iii) is separate from the judicial and legislative branches of state government; and
    - (iv) is not under the direct supervisory control of the governor.
  - (b) "Independent entity" does not include an entity that is:
    - (i) a county;
    - (ii) a municipality as defined in Section 10-1-104;
    - (iii) an institution of higher education as defined in Section 53B-2-102;
    - (iv) a public school as defined in Section 53G-8-701;
    - (v) a special district as defined in Section 17B-1-102;
    - (vi) a special service district as defined in Section 17D-1-102;
    - (vii) created by an interlocal agreement as described in Section 11-13-203; or
    - (viii) an elective constitutional office, including the state auditor, the state treasurer, and the attorney general.
  - (c) Independent entities that are subject to the provisions of this chapter include the:
    - (i) Career Service Review Office created in Section 67-19a-201;
    - (ii) Capitol Preservation Board created in Section 63C-9-201;
    - (iii) Colorado River Authority created in Section 63M-14-201;
    - (iv) Heber Valley Historic Railroad Authority created in Section 63H-4-102;
    - (v) Military Installation Development Authority created in Section 63H-1-201;
    - (vi) Office of the Great Salt Lake Commissioner created in Section 73-32-301;
    - (vii) Office of Inspector General of Medicaid Services created in Section 63A-13-201;
    - (viii) Point of the Mountain State Land Authority created in Section 11-59-201;
    - (ix) Public Service Commission created in Section 54-1-1;
    - (x) School and Institutional Trust Fund Office created in Section 53C-1-201;

- (xi) School and Institutional Trust Lands Administration created in Section 53D-1-201;
- (xii) Utah Beef Council created in Section 4-21-103;
- (xiii) Utah Capital Investment Corporation created in Section 63N-6-301;
- (xiv) Utah Communications Authority created in Section 63H-7a-201;
- (xv) Utah Dairy Commission created in Section 4-22-103;
- (xvi) Utah Education and Telehealth Network created in Section 53B-17-105;
- (xvii) Utah Housing Corporation created in Section 63H-8-201;
- (xviii) Utah Inland Port Authority created in Section 11-58-201;
- (xix) Utah Innovation Lab created in Section 63N-20-201;
- (xx) Utah Lake Authority created in Section 11-65-201;
- (xxi) Utah Retirement Systems created in Section 49-11-201; and
- (xxii) Utah State Fair Park Authority created in Section 11-68-201.

Enacted by Chapter 370, 2024 General Session

**63H-9-102 Independent entity best practices.**

- (1) By May 1 of each year, the Legislative Management Committee may designate one or more of the independent entities listed in Subsection 63H-9-101(4)(c) for legislative study.
- (2) An independent entity designated for legislative study under Subsection (1) shall:
  - (a) use all designated material in the best practices toolbox to conduct a self-assessment of the independent entity;
  - (b) report the results of the assessment described in Subsection (2)(a) to the consensus group and the governor by June 30; and
  - (c) cooperate with the consensus group and, upon request from the consensus group, provide information and material pertaining to an assessment described in Section 63H-9-103.
- (3) An independent entity may request best practice training from the Office of the Legislative Auditor General.

Enacted by Chapter 370, 2024 General Session

**63H-9-103 Consensus group -- Duties.**

- (1)
  - (a) By September 1 of each year, the consensus group shall provide a report on each of the assessment results provided under Subsection 63H-9-102(2)(b) to the Legislative Management Committee, the Legislative Audit Subcommittee, and the Executive Appropriations Committee.
  - (b) For each report described in Subsection (1)(a), the consensus group may consider the independent entity's:
    - (i) public purpose;
    - (ii) relative proximity to or independence from the state;
    - (iii) governance structure;
    - (iv) financial risks and controls, so far as they pertain to state funds;
    - (v) oversight structure; and
    - (vi) exemptions from state policies, procedures, and use of resources.
- (2) To facilitate the work of the consensus group, and pursuant to Section 36-12-18, the consensus group may request, and shall be provided upon request, any document, reports, or information available to a department, division, commission, agency, or other instrumentality of state government.

- (3) After receiving a report from the consensus group, the Legislative Management Committee, the Legislative Audit Subcommittee, and the Executive Appropriations Committee may each take any action in accordance with their respective duties, authority, and powers, which may include:
- (a) requiring an audit;
  - (b) requiring review by an interim committee for potential legislative action; or
  - (c) requesting review by an appropriations subcommittee for potential fiscal action.

Enacted by Chapter 370, 2024 General Session