

**REDEVELOPMENT AGENCY - ECONOMIC
DEVELOPMENT INCENTIVES**

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Peter C. Knudson

AN ACT RELATING TO SPECIAL DISTRICTS; AMENDING REDEVELOPMENT AGENCY PROVISIONS; EXPANDING THE DEFINITION OF ECONOMIC DEVELOPMENT; ALLOWING REDEVELOPMENT AGENCIES IN SMALL MUNICIPALITIES TO DO CERTAIN ECONOMIC DEVELOPMENT; AND MAKING TECHNICAL CHANGES.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

17A-2-1202, as last amended by Chapter 320, Laws of Utah 1995

17A-2-1212, as last amended by Chapter 183, Laws of Utah 1996

§ 17A-2-1247.5, as last amended by Chapter 279, Laws of Utah 1998 §

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **17A-2-1202** is amended to read:

17A-2-1202. Definitions.

As used in this part:

(1) "Agency" means the legislative body of a community when designated by the legislative body itself to act as a redevelopment agency.

(2) "Base tax amount" means that portion of taxes that would be produced by the rate upon which the tax is levied each year by or for all taxing agencies upon the total sum of the taxable value of the taxable property in a redevelopment project area as shown upon the assessment roll used in connection with the taxation of the property by the taxing agencies, last equalized before the effective date of the:

(a) ordinance approving the plan for projects for which a preliminary plan has been prepared prior to April 1, 1993, and for which all of the following have occurred prior to July 1, 1993: the agency blight study has been completed, and a hearing under Section 17A-2-1221 has

28 in good faith been commenced by the agency; or

29 (b) the first approved project area budget for projects for which a preliminary plan has
30 been prepared after April 1, 1993, and for which any of the following have occurred after July 1,
31 1993: the completion of the agency blight study, and the good faith commencement of the hearing
32 by the agency under Section 17A-2-1221; and

33 (c) as adjusted by Sections 17A-2-1250.5, 17A-2-1251, 17A-2-1252, and 17A-2-1253.

34 (3) "Blighted area" or "blight" means:

35 (a) for projects for which a preliminary plan has been prepared prior to April 1, 1993, and
36 for which all of the following have occurred prior to July 1, 1993: the agency blight study has been
37 completed, and a hearing under Section 17A-2-1221 has in good faith been commenced by the
38 agency, an area used or intended to be used for residential, commercial, industrial, or other
39 purposes or any combination of such uses which is characterized by two or more of the following
40 factors:

41 (i) defective design and character of physical construction;

42 (ii) faulty interior arrangement and exterior spacing;

43 (iii) high density of population and overcrowding;

44 (iv) inadequate provision for ventilation, light, sanitation, open spaces, and recreation
45 facilities;

46 (v) age, obsolescence, deterioration, dilapidation, mixed character, or shifting of uses;

47 (vi) economic dislocation, deterioration, or disuse, resulting from faulty planning;

48 (vii) subdividing and sale of lots of irregular form and shape and inadequate size for proper
49 usefulness and development;

50 (viii) laying out of lots in disregard of the contours and other physical characteristics of
51 the ground and surrounding conditions;

52 (ix) existence of inadequate streets, open spaces, and utilities; and

53 (x) existence of lots or other areas which are subject to being submerged by water.

54 (b) For projects for which a preliminary plan has been prepared after April 1, 1993, and
55 for which any of the following have occurred after July 1, 1993: the completion of the agency
56 blight study, and the good faith commencement of the hearing by the agency under Section
57 17A-2-1221, when a finding of blight is required, an area with buildings or improvements, used
58 or intended to be used for residential, commercial, industrial, or other urban purposes or any

59 combination of these uses, which:

60 (i) contains buildings and improvements, not including out-buildings, on at least 50% of
61 the number of parcels and the area of those parcels is at least 50% of the project area; and

62 (ii) is unfit or unsafe to occupy or may be conducive to ill health, transmission of disease,
63 infant mortality, juvenile delinquency, or crime because of any three or more of the following
64 factors:

65 (A) defective character of physical construction;

66 (B) high density of population and overcrowding;

67 (C) inadequate provision for ventilation, light, sanitation, and open spaces;

68 (D) mixed character and shifting of uses which results in obsolescence, deterioration, or
69 dilapidation;

70 (E) economic deterioration or continued disuse;

71 (F) lots of irregular form and shape and inadequate size for proper usefulness and
72 development, or laying out of lots in disregard of the contours and other physical characteristics
73 of the ground and surrounding conditions;

74 (G) existence of inadequate streets, open spaces, and utilities;

75 (H) existence of lots or other areas which are subject to being submerged by water; and

76 (I) existence of any hazardous or solid waste defined as any substance defined, regulated,
77 or listed as "hazardous substances," "hazardous materials," "hazardous wastes," "toxic waste,"
78 "pollutant," "contaminant," or "toxic substances," or identified as hazardous to human health or
79 the environment under state or federal law or regulation.

80 (c) For purposes of Subsection (3)(b), if a developer involved in the project area
81 redevelopment or economic development causes any of the factors of blight listed in Subsection
82 (b)(ii), the developer-caused blight may not be used as one of the three required elements of blight.
83 Notwithstanding the provisions of this section, any blight caused by owners or tenants who may
84 become developers under the provisions of Section 17A-2-1214 shall not be subject to this
85 Subsection (3)(c).

86 (4) "Bond" means any bonds, notes, interim certificates, debentures, or other obligations
87 issued by an agency.

88 (5) "Community" means a city, county, town, or any combination of these.

89 (6) "Economic development" means:

90 (a) the planning or replanning, design or redesign, development or redevelopment,
 91 construction or reconstruction, rehabilitation, business relocation or any combination of these,
 92 within all or part of a project area; and

93 (b) (i) the provision of office, industrial, manufacturing, warehousing, distribution,
 94 parking, public or other facilities, or improvements as may benefit the state or the community in
 95 order for a public or private employer to create additional jobs within the state; or

96 (ii) for a town or a city with a population under \$ ~~10,000~~ 5,000 § , the establishment of a
 96a commercial
 97 development on vacant property within the town or city.

98 (7) "Federal government" means the United States or any of its agencies or
 99 instrumentalities.

100 (8) "Legislative body" means the city council, city commission, county legislative body,
 101 or other legislative body of the community.

102 (9) "Planning commission" means a city, town, or county planning commission established
 103 pursuant to law or charter.

104 (10) "Project area" or "redevelopment project area" means an area of a community within
 105 a designated redevelopment survey area, the redevelopment of which is necessary to eliminate
 106 blight or provide economic development and which is selected by the redevelopment agency
 107 pursuant to this part.

108 (11) "Project area budget" means, for projects for which a preliminary plan has been
 109 prepared after April 1, 1993, and for which any of the following have occurred after July 1, 1993:
 110 the completion of the agency blight study, and the good faith commencement of the hearing by the
 111 agency under Section 17A-2-1221, a multiyear budget for the redevelopment plan prepared by the
 112 redevelopment agency showing:

113 (a) the base year taxable value of the project area;

114 (b) the projected tax increment of the project area, including the amount of any tax
 115 increment shared with other taxing districts which shall include:

116 (i) the tax increment expected to be used to implement the redevelopment plan including
 117 the estimated amount of tax increment to be used for land acquisition, public, and infrastructure
 118 improvements, and loans, grants, or tax incentives to private and public entities; and

119 (ii) the total principal amount of bonds expected to be issued by the redevelopment agency
 120 to finance the project;

121 (c) the tax increment expected to be used to cover the cost of administering the project area
122 plan;

123 (d) a legal description for the portion of the project area from which tax increment will be
124 collected pursuant to Section 17A-2-1247.5, if the area from which tax increment is to be collected
125 is less than the entire project area; and

126 (e) for properties to be sold, the expected total cost of the property to the agency and the
127 expected sales price to be paid by the purchaser.

128 (12) "Public body" means the state, or any city, county, district, authority, or any other
129 subdivision or public body of the state, their agencies, instrumentalities, or political subdivisions.

130 (13) (a) "Redevelopment" means the planning, development, replanning, redesign,
131 clearance, reconstruction, or rehabilitation, or any combination of these, of all or part of a project
132 area, and the provision of residential, commercial, industrial, public, or other structures or spaces
133 that are appropriate or necessary to eliminate blight in the interest of the general welfare, including
134 recreational and other facilities incidental or appurtenant to them.

135 (b) "Redevelopment" includes:

136 (i) the alteration, improvement, modernization, reconstruction, or rehabilitation, or any
137 combination of these, of existing structures in a project area;

138 (ii) provision for open space types of use, such as streets and other public grounds and
139 space around buildings, and public or private buildings, structures and improvements, and
140 improvements of public or private recreation areas and other public grounds; and

141 (iii) the replanning or redesign or original development of undeveloped areas as to which
142 either of the following conditions exist:

143 (A) the areas are stagnant or improperly utilized because of defective or inadequate street
144 layout, faulty lot layout in relation to size, shape, accessibility, or usefulness, or for other causes;
145 or

146 (B) the areas require replanning and land assembly for reclamation or development in the
147 interest of the general welfare.

148 (14) "Redevelopment plan" means a plan developed by the agency and adopted by
149 ordinance of the governing body of a community to guide and control redevelopment and
150 economic development undertakings in a specific project area.

151 (15) "Redevelopment survey area" or "survey area" means an area of a community

152 designated by resolution of the legislative body or the governing body of the agency for study by
153 the agency to determine if blight exists if redevelopment is planned, and if a redevelopment or
154 economic development project or projects within the area are feasible.

155 (16) "Taxes" include all levies on an ad valorem basis upon land, real property, personal
156 property, or any other property, tangible or intangible.

157 (17) "Taxing agencies" mean the public entities, including the state, any city, county, city
158 and county, any school district, special district, or other public corporation, which levy property
159 taxes within the project area.

160 (18) "Tax increment" means that portion of the levied taxes each year in excess of the base
161 tax amount which excess amount is to be paid into a special fund of an agency.

162 Section 2. Section 17A-2-1212 is amended to read:

163 **17A-2-1212. Project area and redevelopment restrictions.**

164 (1) Redevelopment shall include and encourage the continuance of existing buildings or
165 uses. For projects for which a preliminary plan has been prepared after April 1, 1993, and for
166 which any of the following have occurred after July 1, 1993: the completion of the agency blight
167 study, and the good faith commencement of the hearing by the agency under Section 17A-2-1221,
168 if any of the existing buildings or uses are included in or eligible for inclusion in the National
169 Register of Historic Places, or the State Register, the redevelopment plan must be in accordance
170 with Subsection 9-8-404(1).

171 (2) (a) For projects for which a preliminary plan has been prepared after April 1, 1993, and
172 for which any of the following have occurred after July 1, 1993: the completion of the agency
173 blight study, and the good faith commencement of the hearing by the agency under Section
174 17A-2-1221, when the development of retail sales is an objective of the project, tax increment
175 financing provisions of Section 17A-2-1247 or 17A-2-1247.5 may not be used unless:

176 (i) blight is also found; or

177 (ii) the preliminary plan provides for economic development consisting of the
178 establishment of a commercial development on vacant property within a town or a city with a
179 population under § [10,000] 5,000 § .

180 (b) (i) Incidental or subordinate development of retail sales shall not disqualify an
181 economic development project from receiving tax increment financing under Section 17A-2-1247
182 or 17A-2-1247.5.

183 (ii) Incidental or subordinate development of retail sales includes the development of retail
 184 sales resulting from the installation and construction of any building, facility, structure, or other
 185 improvement of a publicly or privately-owned convention center or sports complex, including
 186 parking and infrastructure improvements related to such convention center or sports complex.

186a **§ Section 3. Section 17A-2-1247.5 is amended to read:**

186b **17A-2-1247.5. Tax increment financing -- Project area budget approval.**

186c **(1) This section applies to projects for which a preliminary plan has been adopted on or after**
 186d **July 1, 1993.**

186e **(2) (a) A taxing agency committee shall be created for each redevelopment or economic**
 186f **development project. The committee membership shall be selected as follows:**

186g **(i) two representatives appointed by the school district in the project area;**

186h **(ii) two representatives appointed by resolution of the county commission or county council**
 186i **for the county in which the project area is located;**

186j **(iii) two representatives appointed by resolution of the city or town's legislative body in**
 186k **which**

186k **the project area is located if the project is located within a city or town;**

186l **(iv) a representative approved by the State School Board; and**

186m **(v) one representative who shall represent all of the remaining governing bodies of the other**
 186n **local taxing agencies that levy taxes upon the property within the proposed project area. The**
 186o **representative shall be selected by resolution of each of the governing bodies of those taxing**
 186p **agencies within 30 days after the notice provided in Subsection 17A-2-1256(3).**

186q **(b) If the project is located within a city or town, a quorum of a taxing agency committee**
 186r **consists of five members. If the project is not located within a city or town, a quorum consists of**
 186s **four**

186s **members.**

186t **(c) A taxing agency committee formed in accordance with this section has the authority to:**

186u **(i) represent all taxing entities in a project area and cast votes that will be binding on the**
 186v **governing boards of all taxing entities in a project area;**

186w **(ii) negotiate with the agency concerning the redevelopment plan;**

186x **(iii) approve or disapprove project area budgets under Subsection (3); and**

186y **(iv) approve an exception to the limits on the value and size of project areas imposed by**
 186z **Section 17A-2-1210, or the time and amount of tax increment financing under this section.**

186aa **(3) (a)(i) If the project area budget does not allocate 20% of the tax increment for housing as**
 186ab **provided in Subsection 17A-2-1264(2)(a), OR IF THE REDEVELOPMENT PLAN PROVIDES FOR**
 186ac **ECONOMIC DEVELOPMENT UNDER SUBSECTIONS 17A-2-1202(6)(a) AND (b)(ii):**

186ad **(A) an agency may not collect any tax increment for a project area until after the agency**
 186ae **obtains the majority consent of a quorum of the taxing agency committee for the project area budget;**
 186af **and**

186ag **(B) a project area budget adopted under Subsection (3)(a)(i)(A) may be amended if the**
 186ah **agency**

186ah obtains the majority consent of a quorum of the taxing agency committee.

186aj (ii) [If] EXCEPT FOR A REDEVELOPMENT PLAN THAT PROVIDES FOR §

- 186ak **ECONOMIC DEVELOPMENT UNDER SUBSECTIONS 17A-2-1202(6)(a) AND (b)(ii), IF the project area**
 186al **budget allocates 20% of the tax increment for housing as provided in Subsection 17A-2-1264(2)(a):**
 186am **(A) an agency may not collect tax increment from all or part of a project area until after:**
 186an **(I) the Olene Walker Housing Trust Fund Board, established under Title 9, Chapter 4, Part 7,**
 186ao **Olene Walker Housing Trust Fund, has certified the project area budget as complying with the**
 186ap **requirements of Section 17A-2-1264; and**
 186aq **(II) the agency's governing body has approved and adopted the project area budget by a 2/3**
 186ar **vote; and**
 186as **(B) a project area budget adopted under Subsection (3)(a)(ii)(A) may be amended if:**
 186at **(I) the Olene Walker Housing Trust Fund Board, established under Title 9, Chapter 4, Part 7,**
 186au **Olene Walker Housing Trust Fund, certifies the amendment as complying with the requirements of**
 186av **Section 17A-2-1264; and**
 186aw **(II) the agency's governing body approves and adopts the amendment by a 2/3 vote.**
 186ax **(b) Within 30 days after the approval and adoption of a project area budget, each agency shall**
 186ay **file a copy of the budget with the county auditor, the State Tax Commission, the state auditor, and**
 186az **each property taxing entity affected by the agency's collection of tax increment under the project**
 186ba **area**
 186bb **budget.**
 186bb **(c) (i) Beginning on January 1, 1997, before an amendment to a project area budget is**
 186bc **approved, the agency shall advertise and hold one public hearing on the proposed change in the**
 186bd **project area budget.**
 186be **(ii) The public hearing under Subsection (3)(c)(i) shall be conducted according to the**
 186bf **procedures and requirements of Subsection 17A-2-1222(2), except that if the amended budget**
 186bg **allocates a greater proportion of tax increment to a project area than was allocated to the project**
 186bh **area**
 186bh **under the previous budget, the advertisement shall state the percentage allocated under the previous**
 186bi **budget and the percentage allocated under the amended budget.**
 186bj **(d) If an amendment is not approved, the agency shall continue to operate under the**
 186bk **previously approved, unamended project area budget.**
 186bl **(4) (a) An agency may collect tax increment from all or a part of a project area. The tax**
 186bm **increment shall be paid to the agency in the same manner and at the same time as payments of taxes**
 186bn **to other taxing agencies to pay the principal of and interest on loans, moneys advanced to, or**
 186bo **indebtedness, whether funded, refunded, assumed, or otherwise, to finance or refinance, in whole or**
 186bp **in part, the redevelopment or economic development project and the housing projects and programs**
 186bq **under Sections 17A-2-1263 and 17A-2-1264.**
 186br **(b) (i) An agency may elect to be paid:**
 186bs **(A) if 20% of the project area budget is not allocated for housing as provided in Subsection**
 186bt **17A-2-1264(2)(a):**
 186bu **(I) 100% of annual tax increment for 12 years; or**
 186bv **(II) 75% of annual tax increment for 20 years; or**
 186bw **(B) if 20% of the project area budget is allocated for housing as provided in Subsection**

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186bx 17A-2-1264(2)(a): §

- 186by (I) 100% of annual tax increment for 15 years; or
- 186bz (II) 75% of annual tax increment for 24 years.
- 186ca (ii) Tax increment paid to an agency under this Subsection (4)(b) shall be paid for the
- 186cb applicable length of time beginning the first tax year the agency accepts tax increment from a project
- 186cc area.
- 186cd (c) An agency may receive a greater percentage of tax increment or receive tax increment for
- 186ce a
- 186ce longer period of time than that specified in Subsection (4)(b) if the agency obtains the majority
- 186cf consent of the taxing agency committee.
- 186cg (5) (a) The redevelopment plan shall provide that the portion of the taxes, if any, due to an
- 186ch increase in the tax rate by a taxing agency after the date the project area budget is approved by the
- 186ci taxing agency committee may not be allocated to and when collected paid into a special fund of the
- 186cj redevelopment agency according to the provisions of Subsection (4) unless the taxing agency
- 186ck committee approves the inclusion of the increase in the tax rate at the time the project area budget is
- 186cl approved. If approval of the inclusion of the increase in the tax rate is not obtained, the portion of the
- 186cm taxes attributable to the increase in the rate shall be distributed by the county to the taxing agency
- 186cn imposing the tax rate increase in the same manner as other property taxes.
- 186co (b) The amount of the tax rate to be used in determining tax increment shall be increased or
- 186cp decreased by the amount of an increase or decrease as a result of:
- 186cq (i) a statute enacted by the Legislature, a judicial decision, or an order from the State Tax
- 186cr Commission to a county to adjust or factor its assessment rate under Subsection 59-2-704(2);
- 186cs (ii) a change in exemption provided in Utah Constitution Article XIII, Section 2, or Section
- 186ct 59-2-103;
- 186cu (iii) an increase or decrease in the percentage of fair market value, as defined under Section
- 186cv 59-2-102; or
- 186cw (iv) a decrease in the certified tax rate under Subsection 59-2-924(2)(c) or (2)(d)(i).
- 186cx (c) (i) Notwithstanding the increase or decrease resulting from Subsection (5)(b), the amount
- 186cy of money allocated to, and when collected paid to the agency each year for payment of bonds or
- 186cz other
- 186da indebtedness may not be less than would have been allocated to and when collected paid to the
- 186db agency each year if there had been no increase or decrease under Subsection (5)(b).
- 186db (ii) For a decrease resulting from Subsection (5)(b)(iv), the taxable value for the base year
- 186dc under Subsection 17-2-1247(2)(a) or 17A-2-1202(2), as the case may be, shall be reduced for any year
- 186dd to the extent necessary, including below zero, to provide an agency with approximately the same
- 186de amount of money the agency would have received without a reduction in the county's certified tax
- 186de rate
- 186df if:
- 186dg (A) in that year there is a decrease in the certified tax rate under Subsection 59-2-924(2)(c) or
- 186dh (2)(d)(i);
- 186di (B) the amount of the decrease is more than 20% of the county's certified tax rate of the
- 186dj previous year; and

186dk **(C) the decrease results in a reduction of the amount to be paid to the agency under Section**
186dl **17A-2-1247 or 17A-2-1247.5. §**

186dm **(6) (a) For redevelopment plans first adopted before May 4, 1993, beginning January 1, 1994,**
186dn **all of the taxes levied and collected upon the taxable property in the redevelopment project under**
186do **Section 59-2-906.1 which are not pledged to support bond indebtedness and other contractual**
186dp **obligations are exempt from the provisions of Subsection (4).**
186dq **(b) For redevelopment plans first adopted after May 3, 1993, beginning January 1, 1994, all of**
186dr **the taxes levied and collected upon the taxable property in the redevelopment project under Section**
186ds **59-2-906.1 are exempt from the provisions of Subsection (4). §**

Legislative Review Note
as of 2-9-99 9:28 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel