

REDEVELOPMENT AGENCY AMENDMENT

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: John L. Valentine

AN ACT RELATING TO SPECIAL DISTRICTS; DEFINING EDUCATION HOUSING DEVELOPMENT; AUTHORIZING REDEVELOPMENT AGENCIES TO ENGAGE IN EDUCATION HOUSING DEVELOPMENT; MODIFYING THE MAKEUP OF THE TAXING AGENCY COMMITTEE UNDER CERTAIN CIRCUMSTANCES; ALLOWING SCHOOL DISTRICTS TO CHOOSE NOT TO LOSE TAX INCREMENT FUNDS UNDER CERTAIN CIRCUMSTANCES; 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-2-1203, as last amended by Chapter 50, Laws of Utah 1993
- 17A-2-1204, as repealed and reenacted by Chapter 50, Laws of Utah 1993
- 17A-2-1205, as last amended by Chapter 50, Laws of Utah 1993
- 17A-2-1206, as last amended by Chapter 249, Laws of Utah 1996
- 17A-2-1207, as repealed and reenacted by Chapter 50, Laws of Utah 1993
- 17A-2-1209, as repealed and reenacted by Chapter 50, Laws of Utah 1993
- 17A-2-1220, as last amended by Chapter 50, Laws of Utah 1993
- 17A-2-1222, as last amended by Chapter 249, Laws of Utah 1996
- 17A-2-1225, as last amended by Chapter 249, Laws of Utah 1996
- 17A-2-1230, as last amended by Chapter 50, Laws of Utah 1993
- 17A-2-1236, as last amended by Chapter 50, Laws of Utah 1993
- 17A-2-1247.5, as last amended by Chapters 21 and 194, Laws of Utah 1999
- 17A-2-1263, as enacted by Chapter 50, Laws of Utah 1993
- 17A-2-1264, as enacted 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 in good faith been commenced by the agency; or

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

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

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

(a) 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 in good faith been commenced by the agency, an area used or intended to be used for residential, commercial, industrial, or other purposes or any combination of such uses which is characterized by two or more of the following factors:

(i) defective design and character of physical construction;

(ii) faulty interior arrangement and exterior spacing;

(iii) high density of population and overcrowding;

(iv) inadequate provision for ventilation, light, sanitation, open spaces, and recreation

facilities;

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

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

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

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

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

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

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

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

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

(A) defective character of physical construction;

(B) high density of population and overcrowding;

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

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

(E) economic deterioration or continued disuse;

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

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

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

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

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

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

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

(6) "Economic development" means the planning or replanning, design or redesign, development or redevelopment, construction or reconstruction, rehabilitation, business relocation or any combination of these, within all or part of a project area and the provision of office, industrial, manufacturing, warehousing, distribution, parking, public or other facilities, or improvements as may benefit the state or the community in order for a public or private employer to create additional jobs within the state.

(7) "Education housing development" means to provide high density housing adjacent to a public or private institution of higher education.

[~~(7)~~] (8) "Federal government" means the United States or any of its agencies or instrumentalities.

[~~(8)~~] (9) "Legislative body" means the city council, city commission, county legislative body, or other legislative body of the community.

[~~(9)~~] (10) "Planning commission" means a city, town, or county planning commission

established pursuant to law or charter.

~~[(10)]~~ (11) "Project area" or "redevelopment project area" means an area of a community within a designated redevelopment survey area, the redevelopment of which is necessary to eliminate blight or provide economic or education housing development and which is selected by the redevelopment agency pursuant to this part.

~~[(11)]~~ (12) "Project area budget" means, for projects for which a preliminary plan has been prepared after April 1, 1993, and for which any of the following have occurred after July 1, 1993: the completion of the agency blight study, and the good faith commencement of the hearing by the agency under Section 17A-2-1221, a multiyear budget for the redevelopment plan prepared by the redevelopment agency showing:

- (a) the base year taxable value of the project area;
- (b) the projected tax increment of the project area, including the amount of any tax increment shared with other taxing districts which shall include:
 - (i) the tax increment expected to be used to implement the redevelopment plan including the estimated amount of tax increment to be used for land acquisition, public, and infrastructure improvements, and loans, grants, or tax incentives to private and public entities; and
 - (ii) the total principal amount of bonds expected to be issued by the redevelopment agency to finance the project;
- (c) the tax increment expected to be used to cover the cost of administering the project area plan;
- (d) a legal description for the portion of the project area from which tax increment will be collected pursuant to Section 17A-2-1247.5, if the area from which tax increment is to be collected is less than the entire project area; and
- (e) for properties to be sold, the expected total cost of the property to the agency and the expected sales price to be paid by the purchaser.

~~[(12)]~~ (13) "Public body" means the state, or any city, county, district, authority, or any other subdivision or public body of the state, their agencies, instrumentalities, or political subdivisions.

~~[(13)]~~ (14) (a) "Redevelopment" means the planning, development, replanning, redesign,

clearance, reconstruction, or rehabilitation, or any combination of these, of all or part of a project area, and the provision of residential, commercial, industrial, public, or other structures or spaces that are appropriate or necessary to eliminate blight in the interest of the general welfare, including recreational and other facilities incidental or appurtenant to them.

(b) "Redevelopment" includes:

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

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

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

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

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

~~[(14)]~~ (15) "Redevelopment plan" means a plan developed by the agency and adopted by ordinance of the governing body of a community to guide and control redevelopment ~~[and]~~, economic development, and education housing development undertakings in a specific project area.

~~[(15)]~~ (16) "Redevelopment survey area" or "survey area" means an area of a community designated by resolution of the legislative body or the governing body of the agency for study by the agency to determine if blight exists if redevelopment is planned, and if a redevelopment ~~[or]~~, economic development, or education housing development project or projects within the area are feasible.

~~[(16)]~~ (17) "Taxes" include all levies on an ad valorem basis upon land, real property, personal property, or any other property, tangible or intangible.

~~[(17)]~~ (18) "Taxing agencies" mean the public entities, including the state, any city, county, city and county, any school district, special district, or other public corporation, which levy property

taxes within the project area.

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

Section 2. Section **17A-2-1203** is amended to read:

17A-2-1203. Creation of redevelopment agencies -- Governing body -- Powers -- Contiguous communities.

(1) Any community may, by ordinance, create a redevelopment agency and shall designate the legislative body of the community as the governing body of the agency.

(2) Any agency may:

- (a) enter into contracts generally;
- (b) provide for redevelopment and economic development as provided in this part;
- (c) transact other business and exercise all other powers provided for in this part;
- (d) accept financial or other assistance from any public or private source for the agency's activities, powers, and duties, and expend any funds so received for any of the purposes of this part; and

(e) borrow money or accept financial or other assistance from the state or the federal government for any of the purposes of this part and comply with any conditions of such loan or grant.

(3) (a) By ordinance the legislative body of a community may authorize redevelopment [or], economic development, or education housing development activities in a project area within its territorial limits by another community if the project area is contiguous to the other community.

(b) The ordinance shall designate which community shall undertake the redevelopment [or], economic development, or education housing development.

(c) The community authorized to undertake the redevelopment [or], economic development, or education housing development may act in all respects as if the project area were within its territorial limits and its legislative body, agency, and planning commission shall have all the rights, powers, privileges, and tax increment with respect to the project area as if it were within the territorial limits of the community so authorized.

(d) Any redevelopment plan for the project area shall be approved by ordinance enacted by

the legislative body of the authorizing community.

Section 3. Section **17A-2-1204** is amended to read:

17A-2-1204. Redevelopment survey areas.

(1) Redevelopment survey areas shall be designated by resolution of the governing body of the agency.

(2) Any person, a group, association, or corporation may in writing request the legislative body or the agency to designate a redevelopment survey area or areas for project study purposes and may submit with their request plans showing the proposed redevelopment [or], economic development, or education housing development of the areas or any part or parts thereof.

(3) The resolution designating a redevelopment survey area or areas shall contain the following:

(a) a finding that the area requires study to determine if a project or projects within the area are feasible; and

(b) a description or a map of the boundaries of the area designated.

Section 4. Section **17A-2-1205** is amended to read:

17A-2-1205. Preconditions for designating a project area.

Before any area is designated for redevelopment [or], economic development, or education housing development, the community authorized to undertake the development shall:

(1) have a planning commission; and

(2) have a general plan as required by law.

Section 5. Section **17A-2-1206** is amended to read:

17A-2-1206. Selection of project areas -- Blight hearing.

(1) On the agency's own motion, at the direction of the legislative body, or upon the written petition of a majority of the owners in fee of any proposed redevelopment survey area, excluding publicly owned areas or areas dedicated to a public use, the agency may select one or more project areas comprising all or part of the proposed survey area and formulate a preliminary plan for the redevelopment [or], economic development, or education housing development of each project area in cooperation with the planning commission of the community.

(2) (a) For redevelopment plans required to find blight under Subsection 17A-2-1202(3)(b), the agency shall conduct a public hearing for the purpose of making a finding of blight.

(b) The property owner shall be given a reasonable opportunity to prepare for the blight hearing.

(c) For purposes of this section "reasonable opportunity to prepare" shall include the opportunity to review the agency's evidence of blight, including any expert reports or expected expert testimony. Property owners shall be given at least 30 days to prepare for the hearing.

(3) During the blight hearing required by this section, the agency shall:

(a) present evidence of the elements of blight listed in Section 17A-2-1202;

(b) permit examination and cross-examination by the property owner or the property owner's representative of the agency's evidence or experts; and

(c) hear and consider evidence and expert testimony concerning the elements of blight presented by the property owners or their representative.

(4) For redevelopment plans required to find blight under Subsection 17A-2-1202(3)(b) for which a preliminary plan has been prepared after April 1, 1993, and for which any of the following have occurred after July 1, 1993: the completion of the agency blight study, and the good faith commencement of the hearing by the agency under Section 17A-2-1221, the agency shall hold at least one public hearing within 45 days after designation of a project area to inform the public about the proposed project area and to allow public input into the agency deliberations on designating a project area.

(5) The hearings required in Subsections (2) and (4) may be combined. If they are not combined the agency shall give the property owners notice of the blight study and the possibility that the area will be declared blighted in accordance with Subsection 17A-2-1222(2)(e).

Section 6. Section **17A-2-1207** is amended to read:

17A-2-1207. Contents of preliminary plan.

Each preliminary plan shall:

(1) describe the boundaries of the project area;

(2) contain a general statement of the land uses, layout of principal streets, population

densities, and building intensities and standards proposed as the basis for the redevelopment [or], economic development, or education housing development of the project area;

(3) show how the purposes of this part would be attained by the redevelopment [or], economic development, or education housing development;

(4) show that the proposed redevelopment [or], economic development, or education housing development conforms to the master or general community plan;

(5) for redevelopment projects that conduct a blight study and are subject to the definition of blight under Subsection 17A-2-1202(3)(b), contain a description of the way in which the redevelopment will reduce or eliminate any finding of blight in the project area;

(6) for projects for which a preliminary plan has been prepared after April 1, 1993, and for which any of the following have occurred after July 1, 1993: the completion of the agency blight study, and the good faith commencement of the hearing by the agency under Section 17A-2-1221, contain a description of the specific project or projects that are the object of the proposed redevelopment [or], economic development, or education housing development, if any; and

(7) for projects for which a preliminary plan has been prepared after April 1, 1993, and for which any of the following have occurred after July 1, 1993: the completion of the agency blight study, and the good faith commencement of the hearing by the agency under Section 17A-2-1221, identify the way in which private developers, if any, will be selected to undertake the redevelopment [or], economic development, or education housing development and identify any developers who are currently involved in the proposed redevelopment [or], economic development, or education housing development.

Section 7. Section **17A-2-1209** is amended to read:

17A-2-1209. Use of eminent domain.

(1) Except when acquiring property from an officer or member pursuant to Section 17A-2-1239, eminent domain may not be used by an agency in a project area where one of the purposes of the plan is economic development or education housing development and the project area has not been found to be blighted as defined in Sections 17A-2-1202 and 17A-2-1208.

(2) Before any agency may exercise the power of eminent domain, the agency shall:

(a) negotiate with the affected property owner in good faith and provide evidence of those negotiations;

(b) explain to the affected property owner and occupant in writing the eminent domain power and the procedures and reasons for exercising it;

(c) explain to the affected property owner and occupant his right to just compensation and how he may obtain it; and

(d) explain to the affected property owner and occupant his right to receive aid to relocate as provided in Title 57, Chapter 12.

Section 8. Section **17A-2-1220** is amended to read:

17A-2-1220. Report to accompany plan.

(1) Each project area redevelopment plan shall be accompanied by a report containing:

(a) the reasons for the selection of the project area;

(b) a description of the physical, social, and economic conditions existing in the area;

(c) a financial analysis of the proposed redevelopment describing the proposed method of financing the redevelopment of the project area in sufficient detail so that the legislative body may determine the economic feasibility of the plan. The report shall contain to the extent known, the items specified for a "project area budget" in Section 17A-2-1202 and a description of any tax incentives offered private entities for facilities located in the project area;

(d) a method or plan for the relocation of families and persons to be temporarily or permanently displaced from housing facilities, if any, in the project area;

(e) an analysis of the preliminary plan;

(f) whenever a finding of blight is required under this part for projects for which a preliminary plan has been prepared after April 1, 1993, and for which any of the following have occurred after July 1, 1993: the completion of the agency blight study, and the good faith commencement of the hearing by the agency under Section 17A-2-1221, an analysis in accordance with Subsection (2) showing that the adoption of the plan is necessary and appropriate to reduce or eliminate the blight, or if blight is not found, is beneficial under a benefit analysis to provide economic development or education housing development; and

(g) the report and recommendations of the planning commission.

(2) The analysis of necessary and appropriate in the case of blight, or the benefit analysis in the event of economic development or education housing development shall consider the following factors:

(a) a description of the benefit of financial assistance or other public subsidy, if any, proposed to be provided by the agency including:

(i) an evaluation of the reasonableness of economic development, education housing development, or redevelopment costs;

(ii) efforts to maximize private investment;

(iii) rationale for use of tax increment financing including an analysis of whether the proposed development might reasonably be expected to occur in the foreseeable future solely through private investment; and

(iv) an estimate of the total amount and length of time that tax increment financing will be expended in undertaking economic development, education housing development, or redevelopment;

(b) a description of the anticipated public benefit to be derived from the economic development, education housing development, or redevelopment project including:

(i) the number of jobs or employment anticipated as a result of the economic development, education housing development, or redevelopment project;

(ii) associated business and economic activity likely to be stimulated by the economic development, education housing development, or redevelopment project; and

(iii) the beneficial influences upon the tax base of the community as a result of the economic development, education housing development, or redevelopment project; and

(c) other factors approved by the agency.

(3) The agency shall make the report available to the general public at its offices during normal business hours and shall publish a notice pursuant to Section 17A-2-1222 in a newspaper of general circulation in the county that the report is available for inspection at its offices.

Section 9. Section **17A-2-1222** is amended to read:

17A-2-1222. Notices of hearing required.

(1) (a) Notice of the public hearing on a project area redevelopment plan shall be given by publication not less than once a week for four successive weeks in a newspaper of general circulation published in the county in which the land lies.

(b) The published notice shall:

(i) describe specifically the boundaries of the proposed redevelopment, education housing development, or economic development project area; and

(ii) state the day, hour, and place in which persons objecting to the proposed project area redevelopment plan, denying the findings or existence of blight in the proposed project area, or denying the regularity of any of the proceedings, may appear before the legislative body and show cause why the proposed plan should not be adopted.

(2) (a) For redevelopment plans for which a redevelopment plan has been adopted on or after January 1, 1997, the agency shall publish notice of the hearing on the proposed project area budget one or more times.

(b) The notice under Subsection (2)(a) shall be published at least seven days before the public hearing date.

(c) The agency shall place an advertisement for the public hearing on the proposed project area budget in a newspaper that:

(i) is of the general circulation in the community; and

(ii) to the extent practicable, is of general interest and readership in the community and not of limited subject matter.

(d) The notice shall not be placed in the portion of the newspaper where legal notices and classified advertisements appear.

(e) The notice shall be a display advertisement and, except as provided in Subsection 17A-2-1247.5(3)(c), shall include the following statement:

"NOTICE OF BUDGET HEARING FOR (NAME OF PROJECT AREA)

The (name of redevelopment agency) has requested \$_____ in property tax revenues that will be generated by development within the (name of redevelopment project area) to fund a portion of project costs within the (name of redevelopment project area). These property tax revenues will

be used for the following: (list major budget categories and amounts). These property taxes will be taxes levied by the following governmental entities, and, assuming current tax rates, the taxes collected and allocated to this project area from each taxing entity will be as follows: (list governmental entities levying taxes and the amount of total budget that would be based on the current tax levy of each governmental entity). All of the property taxes to be allocated to the project area are taxes that will be generated only if the project area is developed.

All concerned citizens are invited to attend the project area budget hearing scheduled for (date, time, and place of hearing). A copy of the (name of redevelopment project area) project area budget is available at the offices of (name of redevelopment agency and office address)."

(f) Other information may be provided in the notice including public purpose and future taxing benefits.

(3) The agency shall notify the last-known assessee of each parcel of land in the project area of any public hearing required by this part at least 30 days before the date of the public hearing to the last-known address of the property owner as shown on the last equalized assessment roll. The notice to the property owner shall:

(a) be mailed by certified mail for projects for which a preliminary plan has been adopted after July 1, 1993;

(b) include the summary of property owners rights in accordance with Section 17A-2-1211, for projects for which a preliminary plan has been prepared after April 1, 1993, and for which any of the following have occurred after July 1, 1993: the completion of the agency blight study, and the good faith commencement of the hearing by the agency under Section 17A-2-1221;

(c) describe specifically the boundaries of the proposed project area;

(d) state the day, hour, and place in which persons objecting to the proposed project area or redevelopment plan, denying the existence of blight in the proposed redevelopment project area, if applicable, or denying the regularity of any of the proceedings, may appear before the legislative body and show cause why the proposed project area should not be designated as a project area or why the proposed plan should not be adopted; and

(e) for plans required to make a finding of blight under Subsection 17A-2-1202(3)(b), and

requiring the use of eminent domain, for the public hearings required by Section 17A-2-1206, the agency shall include in the notice to property owners a statement that:

- (i) the area is being proposed for possible redevelopment;
- (ii) the area may be declared blighted; and
- (iii) the property owner will be notified of each additional public hearing held by the agency on the project area prior to the adoption of the plan.

(4) (a) For projects for which a preliminary plan has been prepared after April 1, 1993, and for which any of the following have occurred after July 1, 1993: the completion of the agency blight study, and the good faith commencement of the hearing by the agency under Section 17A-2-1221, the agency shall notify the last known assessee of each parcel of land contiguous to the project area of each public hearing at least 30 days before the date of the public hearing to the last-known address of the property owner as shown on the last equalized assessment roll by certified mail.

(b) For purposes of this part, "contiguous property" means property with a boundary that touches the boundaries of the project area, or with a boundary within 300 feet of the project area's boundaries.

(5) Not less than 30 days prior to the date set for each hearing required by this part, the agency shall give notice by mail to the State Tax Commission, county assessor, county auditor, any taxing agency committee required under Section 17A-2-1247.5, and the governing body of each of the taxing entities of which taxable property is included in the project area if a taxing agency committee is not yet formed under Section 17A-2-1247.5. The notice shall include:

- (a) a description of the boundaries of the proposed project area;
- (b) a map showing the boundaries of the proposed project area;
- (c) a statement that a plan for the redevelopment, education housing development, or economic development of the proposed project area is being prepared; and

(d) a statement that if the redevelopment plan is adopted and, for projects for which a preliminary plan has been prepared after April 1, 1993, and for which any of the following have occurred after July 1, 1993: the completion of the agency blight study, and the good faith commencement of the hearing by the agency under Section 17A-2-1221, if the agency obtains the

majority consent of the taxing agency committee to the project area budget, and if the plan provides for a division of tax revenues, then property taxes resulting from increases in valuation above the taxable value as shown on the last equalized assessment roll could be allocated to the agency for redevelopment, education housing development, or economic development purposes, rather than being paid into the treasury of the taxing agency;

(e) for projects for which a preliminary plan has been prepared after April 1, 1993, and for which any of the following have occurred after July 1, 1993: the completion of the agency blight study, and the good faith commencement of the hearing by the agency under Section 17A-2-1221, state the day, hour, and place for the public hearing at which the approval of the designation of a project area or the redevelopment plan will be considered; and

(f) invite each taxing agency to submit comments to the redevelopment agency concerning the subject matter of the hearing prior to the date of the hearing.

Section 10. Section **17A-2-1225** is amended to read:

17A-2-1225. Adoption, rejection, or modification of plan -- Plan submitted to voters -- When rejection required -- Petition for alternative plan.

(1) Once the hearings have been held, the legislative body may proceed to adopt, reject, or modify the project area redevelopment plan. The project area redevelopment plan may not be modified so as to add any real property to the project area without the legislative body holding a new hearing to consider the matter, notice of which shall be given in the same manner as provided in Section 17A-2-1222.

(2) (a) If the owners of 40% of the area of the property included within the project area proposed in the redevelopment plan, excluding property owned by public agencies or dedicated to public use, make objections in writing prior to or at the hearing and the objections are not withdrawn at or prior to the hearing, the plan may not be adopted until the proposition to so adopt the plan has been approved by a majority of the registered voters of the community voting thereon at an election called for this purpose.

(b) This election may be held on the same day and with the same election officials as any primary or general election held in the community and shall be held as nearly as practicable in

conformity with the general election laws of the state.

(c) Upon the approval by the voters as set forth in Subsection (2)(a), the project area redevelopment plan shall be deemed adopted and the legislative body shall confirm the adoption by ordinance.

(3) If the owners of two-thirds of the area of the property included within any project area proposed in the redevelopment plan, excluding property owned by public agencies or dedicated to public use, make objections in writing at or prior to the hearing, the legislative body may not adopt the project, and the proposed project may not be reconsidered by the legislative body for a period of three years.

(4) (a) Projects for which a preliminary plan has been prepared after April 1, 1993, and for which any of the following have occurred after July 1, 1993: the completion of the agency blight study, and the good faith commencement of the hearing by the agency under Section 17A-2-1221, must adopt a plan within one year after a project area is designated under Section 17A-2-1206 for a redevelopment plan where the purpose is the elimination of blight, and within one year after a preliminary plan is prepared for a redevelopment plan where the purpose is economic development or education housing development.

(b) If the plan will be submitted to an election for approval by the registered voters of a community, the time limit for the plan adoption shall be increased by the time between the close of the public hearing held pursuant to Section 17A-2-1221 and the date of the next general election within the community.

(5) A majority of the owners of the area of the property included within the project area, excluding property owned by public agencies or dedicated to public use, may file a written petition requesting an alternative preliminary plan be formulated pursuant to Section 17A-2-1211.

Section 11. Section **17A-2-1230** is amended to read:

17A-2-1230. Powers of public body aiding and cooperating in redevelopment projects -- Notice requirement.

For the purpose of aiding and cooperating in the planning, undertaking, construction, or operation of redevelopment, education housing development, and economic development projects

located within the area in which it is authorized to act, any public body, after 15 days' public notice, may:

- (1) dedicate, sell, convey, grant, or otherwise dispose or lease any of its property to a redevelopment agency;
- (2) cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished adjacent to or in connection with redevelopment, education housing development, or economic development projects;
- (3) furnish, dedicate, close, vacate, pave, install, grade, regrade, plan, or replan streets, roads, roadways, alleys, sidewalks, or other places which it is otherwise empowered to undertake;
- (4) plan or replan, zone or rezone any part of the area and make any legal exceptions from building regulations and ordinances;
- (5) enter into agreements with the federal government, the state, an agency, or any other public body respecting action to be taken pursuant to any of the powers granted by this part or any other law, which agreements may extend over any period, notwithstanding any law to the contrary;
- (6) purchase or legally invest in any of the bonds of an agency and exercise all of the rights of any holder of such bonds;
- (7) lend, grant, or contribute funds to an agency for a redevelopment, education housing development, or economic development project;
- (8) purchase, buy, sell, lease, or otherwise acquire or dispose of land in a project area from an agency for redevelopment, education housing development, or economic development in accordance with the plan, and in connection with it, to become obligated to the extent that it is authorized and funds have been made available to make the redevelopment improvements or structures required; and
- (9) do any and all things necessary to aid or cooperate in the planning or carrying out of a redevelopment, education housing development, or economic development project.

Section 12. Section **17A-2-1236** is amended to read:

17A-2-1236. Actions on validity or enforceability of bonds -- Time for bringing action.

(1) In any suit, action, or proceeding involving the validity or enforceability of any bond issued under this part or the security for them, any such bond reciting in substance that it has been issued by the agency in connection with an area redevelopment, education housing development, or economic development project shall be conclusively deemed to have been issued for that purpose and the project shall be conclusively deemed to have been planned, located, and carried out in accordance with the provisions of this part.

(2) For a period of 30 days after the publication of the resolution authorizing the bonds, or a notice of bonds to be issued by the agency containing those items described in Subsection 11-14-21(3) in a newspaper having general circulation in the area of operation, any person may contest the legality of the resolution authorizing any bonds or any provisions made for the security and payment of the bonds. After the 30-day period no one has any cause of action to contest the regularity, formality, or legality of the bonds for any cause whatsoever.

Section 13. Section **17A-2-1247.5** is amended to read:

17A-2-1247.5. Tax increment financing -- Project area budget approval -- Payment of additional tax increment.

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

(2) (a) (i) A taxing agency committee shall be created for each redevelopment, education housing development, or economic development project. The committee membership shall be selected as follows:

[(i)] (A) unless a school district board votes not to appoint representatives under Subsection (2)(a)(ii)(A), two representatives appointed by the school district in the project area;

[(ii)] (B) two representatives appointed by resolution of the county commission or county council for the county in which the project area is located;

[(iii)] (C) two representatives appointed by resolution of the city or town's legislative body in which the project area is located if the project is located within a city or town;

[(iv)] (D) unless a school district board votes not to appoint representatives under Subsection (2)(a)(ii)(A), a representative approved by the State School Board; and

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

(ii) (A) A school district that levies a tax on property located within a project area may choose not to appoint representatives to the taxing agency committee under Subsection (2)(a)(i)(A) if:

(I) the project area is established under an education housing development project; and

(II) the project area budget of the project area under Subsection (2)(a)(ii)(A)(I) is adopted on or after May 1, 2000.

(B) If a school district board votes not to appoint representatives to the taxing agency committee under Subsection (2)(a)(ii)(A), the State School Board may not appoint a representative to the taxing agency committee.

(b) (i) If the project is located within a city or town, a quorum of a taxing agency committee consists of:

(A) if a school district board votes not to appoint representatives to the taxing agency committee under Subsection (2)(a)(ii)(A), three members; or

(B) in all other cases, five members.

(ii) If the project is not located within a city or town, a quorum consists of:

(A) if a school district board votes not to appoint representatives to the taxing agency committee under Subsection (2)(a)(ii)(A), two members; or

(B) in all other cases, four members.

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

(i) (A) represent all taxing entities in a project area, except a school district whose board has voted under Subsection (2)(a)(ii)(A) not to appoint representatives to the taxing agency committee;
and

(B) cast votes that will be binding on the governing boards of all taxing entities in a project area that the taxing agency committee represents under Subsection (2)(c)(i)(A);

(ii) negotiate with the agency concerning the redevelopment plan;

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

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

(3) (a)(i) If the project area budget does not allocate 20% of the tax increment for housing as provided in Subsection 17A-2-1264(2)(a):

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

(B) a project area budget adopted under Subsection (3)(a)(i)(A) may be amended if the agency obtains the majority consent of a quorum of the taxing agency committee.

(ii) If the project area budget allocates 20% of the tax increment for housing as provided in Subsection 17A-2-1264(2)(a):

(A) an agency may not collect tax increment from all or part of a project area until after:

(I) the Olene Walker Housing Trust Fund Board, established under Title 9, Chapter 4, Part 7, Olene Walker Housing Trust Fund, has certified the project area budget as complying with the requirements of Section 17A-2-1264; and

(II) the agency's governing body has approved and adopted the project area budget by a two-thirds vote; and

(B) a project area budget adopted under Subsection (3)(a)(ii)(A) may be amended if:

(I) the Olene Walker Housing Trust Fund Board, established under Title 9, Chapter 4, Part 7, Olene Walker Housing Trust Fund, certifies the amendment as complying with the requirements of Section 17A-2-1264; and

(II) the agency's governing body approves and adopts the amendment by a two-thirds vote.

(b) Within 30 days after the approval and adoption of a project area budget, each agency shall file a copy of the budget with the county auditor, the State Tax Commission, the state auditor, and each property taxing entity affected by the agency's collection of tax increment under the project area budget.

(c) (i) Beginning on January 1, 1997, before an amendment to a project area budget is approved, the agency shall advertise and hold one public hearing on the proposed change in the project area budget.

(ii) The public hearing under Subsection (3)(c)(i) shall be conducted according to the procedures and requirements of Subsection 17A-2-1222(2), except that if the amended budget allocates a greater proportion of tax increment to a project area than was allocated to the project area under the previous budget, the advertisement shall state the percentage allocated under the previous budget and the percentage allocated under the amended budget.

(d) If an amendment is not approved, the agency shall continue to operate under the previously approved, unamended project area budget.

(4) (a) ~~Am~~ Except as provided in Subsections (6) and (8), an agency may collect tax increment from all or a part of a project area. The tax increment shall be paid to the agency in the same manner and at the same time as payments of taxes to other taxing agencies to pay the principal of and interest on loans, moneys advanced to, or indebtedness, whether funded, refunded, assumed, or otherwise, to finance or refinance, in whole or in part, the redevelopment, education housing development, or economic development project and the housing projects and programs under Sections 17A-2-1263 and 17A-2-1264.

(b) (i) An agency may elect to be paid:

(A) if 20% of the project area budget is not allocated for housing as provided in Subsection 17A-2-1264(2)(a):

(I) 100% of annual tax increment for 12 years; or

(II) 75% of annual tax increment for 20 years; or

(B) if 20% of the project area budget is allocated for housing as provided in Subsection 17A-2-1264(2)(a):

(I) 100% of annual tax increment for 15 years; or

(II) 75% of annual tax increment for 24 years.

(ii) Tax increment paid to an agency under this Subsection (4)(b) shall be paid for the applicable length of time beginning the first tax year the agency accepts tax increment from a project

area.

(c) An agency may receive a greater percentage of tax increment or receive tax increment for a longer period of time than that specified in Subsection (4)(b) if the agency obtains the majority consent of the taxing agency committee.

(5) (a) The redevelopment plan shall provide that the portion of the taxes, if any, due to an increase in the tax rate by a taxing agency after the date the project area budget is approved by the taxing agency committee may not be allocated to and when collected paid into a special fund of the redevelopment agency according to the provisions of Subsection (4) unless the taxing agency committee approves the inclusion of the increase in the tax rate at the time the project area budget is approved. If approval of the inclusion of the increase in the tax rate is not obtained, the portion of the taxes attributable to the increase in the rate shall be distributed by the county to the taxing agency imposing the tax rate increase in the same manner as other property taxes.

(b) The amount of the tax rate to be used in determining tax increment shall be increased or decreased by the amount of an increase or decrease as a result of:

(i) a statute enacted by the Legislature, a judicial decision, or an order from the State Tax Commission to a county to adjust or factor its assessment rate under Subsection 59-2-704(2);

(ii) a change in exemption provided in Utah Constitution Article XIII, Section 2, or Section 59-2-103;

(iii) an increase or decrease in the percentage of fair market value, as defined under Section 59-2-102; or

(iv) a decrease in the certified tax rate under Subsection 59-2-924(2)(c) or (2)(d)(i).

(c) (i) Notwithstanding the increase or decrease resulting from Subsection (5)(b), the amount of money allocated to, and when collected paid to the agency each year for payment of bonds or other indebtedness may not be less than would have been allocated to and when collected paid to the agency each year if there had been no increase or decrease under Subsection (5)(b).

(ii) For a decrease resulting from Subsection (5)(b)(iv), the taxable value for the base year under Subsection 17A-2-1202(2) or 17A-2-1247(2)(a), as the case may be, shall be reduced for any year to the extent necessary, including below zero, to provide an agency with approximately the same

amount of money the agency would have received without a reduction in the county's certified tax rate if:

(A) in that year there is a decrease in the certified tax rate under Subsection 59-2-924(2)(c) or (2)(d)(i);

(B) the amount of the decrease is more than 20% of the county's certified tax rate of the previous year; and

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

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

(b) For redevelopment plans first adopted after May 3, 1993, beginning January 1, 1994, all of the taxes levied and collected upon the taxable property in the redevelopment project under Section 59-2-906.1 are exempt from the provisions of Subsection (4).

(7) (a) In addition to the amounts and periods that an agency may elect to be paid tax increment under Subsection (4)(b), an agency may elect to be paid 100% of annual tax increment for an additional period, as provided in Subsection (7)(b), beyond those periods provided under Subsection (4)(b), without the approval of the taxing agency committee, if the tax increment funding for the additional period is used:

(i) for an agency in a city in which is located all or a portion of an interchange on I-15 or that would directly benefit from an interchange on I-15, to pay some or all of the cost of the installation, construction, or reconstruction of:

(A) an interchange on I-15; or

(B) frontage and other roads connecting to the interchange, as determined by the Department of Transportation created under Section 72-1-201 and the Transportation Commission created under Section 72-1-301; or

(ii) for an agency in a city of the first class, to pay some or all of the cost of the land for and

installation and construction of a recreational facility, as defined in Subsection 59-12-702(3), or a cultural facility, including parking and infrastructure improvements related to the recreational or cultural facility.

(b) The additional period for which an agency may be paid 100% of annual tax increment under Subsection (7)(a) is an additional:

- (i) 13 years, for an agency that initially elected to be paid under Subsection (4)(b)(i)(A)(I);
- (ii) five years, for an agency that initially elected to be paid under Subsection (4)(b)(i)(A)(II);
- (iii) ten years, for an agency that initially elected to be paid under Subsection (4)(b)(i)(B)(I);

and

- (iv) one year, for an agency that initially elected to be paid under Subsection (4)(b)(i)(B)(II).

(c) This Subsection (7) applies only to an agency established by a city in which:

(i) for an agency in a city in which is located all or a portion of an interchange on I-15 or that would directly benefit from an interchange on I-15, the installation, construction, or reconstruction of an interchange on I-15 or frontage or other roads connecting to the interchange has begun on or before June 30, 2000; and

(ii) for an agency in a city of the first class, the installation or construction of a recreational facility, as defined in Subsection 59-12-702(3), or a cultural facility has begun on or before June 30, 2000.

(d) Notwithstanding any other provision of this Subsection (7), a school district may not receive less tax increment because of application of the other provisions of this Subsection (7) than it would have received without those provisions.

(8) If a school district board votes not to appoint representatives to the taxing agency committee under Subsection (2)(a)(ii)(A), all of the taxes levied and collected upon taxable property in the redevelopment project by the school district are exempt from Subsection (4) and the agency may not collect tax increment from taxes levied by the school district in the project area.

Section 14. Section **17A-2-1263** is amended to read:

17A-2-1263. Housing funds.

- (1) Tax increment paid to an agency under Section 17A-2-1247 or 17A-2-1247.5 from one

project area may be used to pay all or part of the value of the land for and the cost of installation, construction, and rehabilitation of any building, facility, structure, or other housing improvement, including infrastructure improvements related to housing located in one or more project areas.

(2) Notwithstanding any provisions of this part, a maximum of 20% of tax increment under Sections 17A-2-1247 and 17A-2-1247.5 may be used by an agency outside of project areas for the purpose of replacing housing units lost by redevelopment, education housing development, and economic development, or increasing, improving, and preserving the community's supply of affordable housing generally.

(3) The funds allocated under this section shall be held by the agency in a separate account of the special fund of the redevelopment agency designated as the housing fund until used. The housing fund, together with any interest earned by the fund, and any payments or repayments made to the agency for loans, advances, or grants of any kind from the fund shall accrue to and be deposited in the housing fund to be used to increase, improve, and preserve the supply of housing within project areas and affordable housing within the boundaries of the community or used to effectuate any purposes of redevelopment, education housing development, or economic development in the project area from which the funds originated.

(4) Expenditures or obligations incurred by the agency under this section shall constitute an indebtedness incurred by an agency.

(5) An agency may lend, grant, or contribute funds from the housing fund to a person, public body, housing authority, private entity or business, or nonprofit corporation for housing purposes as defined in this section.

(6) For purposes of this section, "affordable housing" means housing to be owned or occupied by persons and families of low or moderate income as determined by resolution of the agency.

Section 15. Section **17A-2-1264** is amended to read:

17A-2-1264. Affordable housing funds under redevelopment plans adopted on or after July 1, 1998.

(1) As used in this section:

(a) "Affordable housing" has the meaning as defined under Subsection 17A-2-1263(6).

(b) "Annual income" has the meaning as defined under regulations of the U.S. Department of Housing and Urban Development, 24 CFR, Part 813, as amended or as superseded by replacement regulations.

(c) "Board" means the Olene Walker Housing Trust Fund Board, established under Title 9, Chapter 4, Part 7, Olene Walker Housing Trust Fund.

(d) "Fair share ratio" means the ratio derived by:

(i) for a city or town, comparing the percentage of all housing units within the city or town that are publicly subsidized income targeted housing units to the percentage of all housing units within

the whole county that are publicly subsidized income targeted housing units; or

(ii) for the unincorporated part of a county, comparing the percentage of all housing units within the unincorporated county that are publicly subsidized income targeted housing units to the percentage of all housing units within the whole county that are publicly subsidized income targeted housing units.

(e) "Family" has the meaning as defined under regulations of the U.S. Department of Housing and Urban Development, 24 CFR, Part 813, as amended or as superseded by replacement regulations.

(f) "Housing funds" means the funds allocated in the project area budget under Subsection (2)(a) for the purposes provided in Subsection (3).

(g) "Income targeted housing" means housing to be owned or occupied by a family whose annual income is at or below 80% of the median annual income for the county in which the housing is located.

(h) "Unincorporated" means not within a city or town.

(2) (a) A project area budget for a redevelopment plan that is adopted on or after July 1, 1998, may allocate 20% of the tax increment funds payable to the agency over the life of the redevelopment plan for use as provided in Subsection (3).

(b) Before an agency may adopt a project area budget that allocates 20% of tax increment funds under Subsection (2)(a), the board shall certify the project area budget to be in compliance with the requirements of this section.

(c) (i) If an agency fails to provide housing funds in accordance with the certified project area budget, the board may bring legal action to compel the agency to provide the housing funds.

(ii) In an action under Subsection (2)(c)(i), the court:

(A) shall award the board a reasonable attorney's fee, unless the court finds that the action was frivolous; and

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

(3) (a) Each agency shall use all housing funds allocated under Subsection (2)(a) to:

(i) pay part or all of the cost of land or construction of income targeted housing within the community that created the agency, if practicable in a mixed income development or area;

(ii) pay part or all of the cost of rehabilitation of income targeted housing within the community that created the agency;

(iii) pay part or all of the cost of land or installation, construction, or rehabilitation of any building, facility, structure, or other housing improvement, including infrastructure improvements, related to housing located in a redevelopment project area where blight has been found to exist;

(iv) replace housing units lost as a result of the redevelopment, education housing, or economic development;

(v) make payments on or establish a reserve fund for bonds:

(A) issued by the agency, the community, or the housing authority that provides income targeted housing within the community; and

(B) all or part of the proceeds of which are used within the community for the purposes stated in Subsections (3)(a)(i), (ii), (iii), or (iv); or

(vi) if the community's fair share ratio at the time of the first adoption of the project area budget is at least 1.1 to 1.0, make payments on bonds:

(A) that were previously issued by the agency, the community, or the housing authority that provides income targeted housing within the community; and

(B) all or part of the proceeds of which were used within the community for the purposes stated in Subsections (3)(a)(i), (ii), (iii), or (iv).

(b) As an alternative to the requirements of Subsection (3)(a), an agency may pay all housing funds to:

(i) the community for use as provided under Subsection (3)(a);

(ii) the housing authority that provides income targeted housing within the community for use in providing income targeted housing within the community; or

(iii) the Olene Walker Housing Trust Fund, established under Title 9, Chapter 4, Part 7, Olene Walker Housing Trust Fund, for use in providing income targeted housing within the community.

(4) The agency or community shall hold the housing funds, together with all interest earned by the housing funds and all payments or repayments for loans, advances, or grants from the housing funds, in a separately designated account until the funds are used pursuant to this section.

(5) In using housing funds under Subsection (3)(a), an agency may lend, grant, or contribute housing funds to a person, public body, housing authority, private entity or business, or nonprofit organization for use as provided in Subsection (3)(a).

(6) An agency may:

(a) issue bonds from time to time to finance a housing undertaking under this section, including the payment of principal and interest upon advances for surveys and plans or preliminary loans; and

(b) issue refunding bonds for the payment or retirement of bonds under Subsection (6)(a) previously issued by the agency.

(7) Expenditures or obligations incurred by an agency under this section shall constitute an indebtedness incurred by the agency.