

1 **LIMITED PURPOSE LOCAL GOVERNMENT**

2 **AGENCIES AMENDMENTS**

3 2002 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Darin G. Peterson**

6 **This act modifies provisions related to redevelopment agencies by having the 20% housing**
7 **allowance requirement apply only to redevelopment project area plans that provide for more**
8 **than \$100,000 of annual tax increment to be paid to the agency.**

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

10 AMENDS:

11 **17B-4-504**, as enacted by Chapter 133, Laws of Utah 2001

12 **17B-4-505**, as enacted by Chapter 133, Laws of Utah 2001

13 **17B-4-1010**, as enacted by Chapter 133, Laws of Utah 2001

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

15 Section 1. Section **17B-4-504** is amended to read:

16 **17B-4-504. Part of tax increment funds to be used for housing -- Waiver of**
17 **requirement.**

18 (1) (a) Except as provided in Subsection (1)(b)[~~7~~]:

19 (i) each project area budget adopted [~~on or after~~] ~~between~~ May 1, 2000, and April 30,
20 2002, that provides for more than \$100,000 of annual tax increment to be paid to the agency shall
21 allocate at least 20% of the tax increment for housing as provided in Section 17B-4-1010[~~7~~]; and

22 (ii) each redevelopment project area plan adopted on or after May 1, 2002, that provides
23 for more than \$100,000 of annual tax increment to be paid to the agency shall allocate at least 20%
24 of the tax increment for housing as provided in Section 17B-4-1010.

25 (b) The 20% requirement of Subsection (1)(a) may be waived in part or whole by the
26 mutual consent of the trust fund board and the taxing entity committee if they determine that 20%
27 of tax increment is more than is needed to address the community's need for income targeted



28 housing, as defined in Section 17B-4-1010.

29 (2) A project area budget not required under Subsection (1)(a) to allocate tax increment
30 for housing may allocate 20% of tax increment payable to the agency over the life of the project
31 area for housing as provided in Section 17B-4-1010 if the project area budget is under a project
32 area plan that is adopted on or after July 1, 1998.

33 Section 2. Section **17B-4-505** is amended to read:

34 **17B-4-505. Consent of taxing entity committee.**

35 (1) (a) Except as provided in Subsection (1)(b) and subject to Subsection (2), each agency
36 shall obtain the consent of the taxing entity committee for each project area budget under a
37 post-June 30, 1993 project area plan before the agency may collect any tax increment from the
38 project area.

39 (b) For a project area budget adopted from July 1, 1998 through May 1, 2000 that allocates
40 20% or more of the tax increment for housing as provided in Section 17B-4-1010, an agency:

41 (i) need not obtain the consent of the taxing entity committee for the project area budget;

42 and

43 (ii) may not collect any tax increment from all or part of the project area until after:

44 (A) the trust fund board has certified the project area budget as complying with the
45 requirements of Section 17B-4-1010; and

46 (B) the agency board has approved and adopted the project area budget by a two-thirds
47 vote.

48 (2) (a) Before a taxing entity committee may consent to a project area budget adopted [~~on~~
49 ~~or after~~] between May 1, 2000, and April 30, 2002, or to a redevelopment project area budget
50 adopted on or after May 1, 2002, that is required under Subsection 17B-4-504(1)(a) to allocate
51 20% of tax increment for housing, the agency shall:

52 (i) adopt a housing plan showing the uses for the housing funds; and

53 (ii) provide a copy of the housing plan to the taxing entity committee and the trust fund
54 board.

55 (b) If an agency amends a housing plan prepared under Subsection (2)(a), the agency shall
56 provide a copy of the amendment to the taxing entity committee and the trust fund board.

57 Section 3. Section **17B-4-1010** is amended to read:

58 **17B-4-1010. Income targeted housing -- Agency may use tax increment for income**

59 **targeted housing.**

60 (1) As used in this section:

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

64 (b) "Fair share ratio" means the ratio derived by:

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

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

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

75 (d) "Housing funds" means the funds allocated in the project area budget under Section
76 17B-4-504 for the purposes provided in Subsection (2).

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

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

81 (2) (a) Each agency shall use all funds allocated for housing under this section to:

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

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

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

89 (iv) replace housing units lost as a result of [the] redevelopment[, economic development,

90 ~~or education housing development];~~

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

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

94 (B) all or part of the proceeds of which are used within the community for the purposes
95 stated in Subsection (2)(a)(i), (ii), (iii), or (iv); or

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

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

100 (B) all or part of the proceeds of which were used within the community for the purposes
101 stated in Subsection (2)(a)(i), (ii), (iii), or (iv).

102 (b) As an alternative to the requirements of Subsection (2)(a), an agency may pay all
103 housing funds to:

104 (i) the community for use as provided under Subsection (2)(a);

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

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

110 (3) The agency or community shall separately account for the housing funds, together with
111 all interest earned by the housing funds and all payments or repayments for loans, advances, or
112 grants from the housing funds.

113 (4) In using housing funds under Subsection (2)(a), an agency may lend, grant, or
114 contribute housing funds to a person, public body, housing authority, private entity or business,
115 or nonprofit organization for use as provided in Subsection (2)(a).

116 (5) An agency may:

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

120 (b) issue refunding bonds for the payment or retirement of bonds under Subsection (5)(a)

121 previously issued by the agency.

122 (6) (a) If an agency fails to provide housing funds in accordance with the project area
123 budget and, if applicable, the housing plan adopted under Subsection 17B-4-505(2), the trust fund
124 board may bring legal action to compel the agency to provide the housing funds.

125 (b) In an action under Subsection (6)(a), the court:

126 (i) shall award the trust fund board a reasonable attorney's fee, unless the court finds that
127 the action was frivolous; and

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

Legislative Review Note
as of 1-25-02 12:48 PM

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

Office of Legislative Research and General Counsel