

1                                   **COMMUNITY AND ECONOMIC DEVELOPMENT**

2   **AMENDMENTS**

3   2003 GENERAL SESSION

4   STATE OF UTAH

5   **Sponsor: Carlene M. Walker**

6   **This act modifies provisions related to community and economic development by**  
7   **expanding the powers of the Private Activity Bond Review Board to contract with**  
8   **nonprofit manufacturing service organizations for specific purposes. The act expands**  
9   **the considerations the board shall take into account in making allocations of bond cap**  
10   **volume. The act expands the powers of the Utah Housing Corporation to include the**  
11   **issuing of bonds and financing of projects under the Utah Industrial Facilities and**  
12   **Development Act. The act makes certain technical changes.**

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

14   AMENDS:

15                   **9-4-504**, as last amended by Chapter 192, Laws of Utah 1997

16                   **9-4-505**, as last amended by Chapter 95, Laws of Utah 2000

17                   **9-4-902**, as last amended by Chapter 319, Laws of Utah 2001

18                   **9-4-911**, as last amended by Chapter 319, Laws of Utah 2001

19                   **9-4-913**, as last amended by Chapter 319, Laws of Utah 2001

20                   **11-17-2**, as last amended by Chapter 73, Laws of Utah 2001

21   ENACTS:

22                   **11-17-20**, Utah Code Annotated 1953

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

24                   Section 1. Section **9-4-504** is amended to read:

25                   **9-4-504. Powers, functions, and duties of board of review.**

26                   The board of review shall:

27                   (1) make, subject to the limitations of the code, allocations of volume cap to issuing



28 authorities;

29 (2) determine the amount of volume cap to be allocated with respect to approved  
30 applications;

31 (3) maintain a record of all applications filed by issuing authorities under Section  
32 9-4-505 and all certificates of allocation issued under Section 9-4-507;

33 (4) maintain a record of all bonds issued by issuing authorities during each year;

34 (5) determine the amount of volume cap to be treated as a carryforward under Section  
35 146(f) of the code and allocate this carryforward to one or more qualified carryforward  
36 purposes;

37 (6) make available upon reasonable request a certified copy of all or any part of the  
38 records maintained by the board of review under this part or a summary of them including  
39 information relating to the volume cap for each year and any amounts available for allocation  
40 under this part;

41 (7) [promulgate] in accordance with Title 63, Chapter 46a, Utah Administrative  
42 Rulemaking Act, make rules for the allocation of volume cap under this part; [and]

43 (8) charge reasonable fees for the performance of duties prescribed by this part,  
44 including application, filing, and processing fees[-]; and

45 (9) contract for services that:

46 (a) promote maximum utilization of the volume cap available for manufacturing  
47 projects;

48 (b) perform applicant assessments to assist the board in prioritizing manufacturing  
49 applicants; and

50 (c) identify and assist in implementing a continuous improvement program for each  
51 manufacturing recipient to:

52 (i) stimulate economic growth;

53 (ii) promote employment; and

54 (iii) achieve greater industrial development in the state.

55 Section 2. Section **9-4-505** is amended to read:

56 **9-4-505. Allocation of volume cap.**

57 (1) (a) Subject to Subsection (1)(b), the volume cap for each year shall be distributed  
58 by the board of review to the various allotment accounts as set forth in Section 9-4-506.

59 (b) The board of review may distribute up to 50% of each increase in the volume cap  
60 that occurs after the effective date of this Subsection (1)(b) for use in development that occurs  
61 in quality growth areas, depending upon the board's analysis of the relative need for additional  
62 volume cap between development in quality growth areas and the allotment accounts under  
63 Section 9-4-506.

64 (2) To obtain an allocation of the volume cap, issuing authorities shall submit to the  
65 board of review an application containing information required by the procedures and  
66 processes of the board of review.

67 (3) (a) The board of review shall establish criteria for making allocations of volume  
68 cap that are consistent with the purposes of the code and this part.

69 (b) In making an allocation of volume cap the board of review shall consider the  
70 following:

71 ~~[(a)]~~ (i) the principal amount of the bonds proposed to be issued;

72 ~~[(b)]~~ (ii) the nature and the location of the project or the type of program;

73 ~~[(c)]~~ (iii) the likelihood that the bonds will be sold and the timeframe of bond issuance;

74 ~~[(d)]~~ (iv) whether the project or program could obtain adequate financing without an  
75 allocation of volume cap;

76 ~~[(e)]~~ (v) the degree to which an allocation of volume cap is required for the project or  
77 program to proceed or continue;

78 ~~[(f)]~~ (vi) the social, health, economic, and educational effects of the project or program  
79 on the local community and state as a whole;

80 ~~[(g)]~~ (vii) the anticipated economic development created or retained within the local  
81 community and the state as a whole;

82 ~~[(h)]~~ (viii) the anticipated number of jobs, both temporary and permanent, created or  
83 retained within the local community and the state as a whole;

84 ~~[(i)]~~ (ix) if the project is a residential rental project, the degree to which the residential  
85 rental project targets lower income populations; ~~[and]~~

86 ~~[(j)]~~ (x) whether the project meets the principles of quality growth recommended by the  
87 Quality Growth Commission created under Section 11-38-201[-]; and

88 (xi) the extent to which the manufacturing applicant commits to reinvest anticipated  
89 savings into a manufacturing extension continuous improvement program for itself or its

90 suppliers in the state.

91 (4) The board of review shall evidence an allocation of volume cap by issuing a  
92 certificate in accordance with Section 9-4-507.

93 (5) (a) From January 1 to June 30, the board shall set aside at least 50% of the Small  
94 Issue Bond Account that may be allocated only to manufacturing projects.

95 (b) From July 1 to August 15, the board shall set aside at least 50% of the Pool  
96 Account that may be allocated only to manufacturing projects.

97 Section 3. Section **9-4-902** is amended to read:

98 **9-4-902. Policy -- Finding and declaration.**

99 [~~(1)~~] It is found and declared that:

100 (1) the policy of the state of Utah is to assure the health, safety, and welfare of its  
101 citizens, that an adequate supply of decent, safe, and sanitary housing is essential to the  
102 well-being of the citizens of the state, and that an adequate supply of mortgage funds for  
103 housing at reasonable interest rates is in the public interest[-];

104 [~~(2) It is found and declared that:~~]

105 (2) (a) there continues to exist throughout the state a seriously inadequate supply of  
106 safe and sanitary dwelling accommodations within the financial means of persons and families  
107 of low or moderate income who wish to purchase or rent residential housing; and

108 (b) from time to time the high rates of interest charged by mortgage lenders seriously  
109 restrict the transfer of existing housing and new housing starts[-];

110 (3) [~~It is found and declared that~~] the reduction in residential construction starts  
111 associated with the high rates causes a condition of substantial unemployment and  
112 underemployment in the construction industry which impedes the economy of the state and  
113 affects the welfare and prosperity of all the people of the state[-];

114 [~~(4) It is found and declared that:~~]

115 (4) (a) these conditions associated with the recurrent shortages of residential mortgage  
116 funds contribute to slums and blight in the cities and rural areas of the state and ultimately to  
117 the deterioration of the quality of living conditions within the state; and

118 (b) in accordance with the purpose of this part to assist in providing housing for low  
119 and moderate income persons who otherwise could not achieve decent, safe, and sanitary  
120 housing, the agency shall make every effort to make housing available in rural, inner city, and

121 other areas experiencing difficulty in securing construction and mortgage loans, and to make  
122 decent, safe, and sanitary housing available to low income persons and families[-];

123 (5) ~~[It is found and declared that]~~ in order to assure an adequate fund of private capital  
124 into this housing, the cooperation between private enterprise and state government is essential  
125 and is in the public interest[-];

126 (6) ~~[It is found and declared that]~~ low and moderate income persons in Utah have a  
127 wide range of housing needs, which necessitates the development of many different kinds of  
128 programs to address those needs, including programs providing mortgage loans, nontraditional  
129 loans, grants, and other forms of financial assistance, and combinations of these forms[-];

130 (7) ~~[It is found and declared that]~~ there are private organizations and governmental  
131 entities throughout Utah that are endeavoring to improve the availability of housing for low  
132 and moderate income, but many of these organizations and entities lack expertise and financial  
133 resources to act efficiently and expeditiously in these efforts[-];

134 (8) ~~[It is found and declared that]~~ innovative programs that bring together resources  
135 from the public, nonprofit, and private sector are necessary in order to increase the supply of  
136 housing for low and moderate individuals, but these programs usually need advice and  
137 financial assistance to become established[-];

138 (9) ~~[It is declared that]~~ all of the foregoing are public purposes and uses for which  
139 moneys may be borrowed, expended, advanced, loaned, or granted, and that these activities  
140 serve a public purpose in improving or otherwise benefiting the people of this state, and that  
141 the necessity of enacting the provisions in this part is in the public interest and is so declared as  
142 a matter of express legislative determination[-];

143 (10) ~~[It is found and declared]~~ that the compelling need within the state for the creation  
144 of an adequate supply of mortgage funds at reasonable interest rates and for other kinds of  
145 financial assistance to help provide affordable housing for low and moderate income  
146 individuals can be best met by the establishment of an independent body corporate and politic,  
147 constituting a public corporation, vested with the powers and duties specified in this part[-];

148 (11) ~~[It is declared that]~~ the corporation is intended to operate:

149 (a) with the power to issue tax exempt bonds to finance the purchase of mortgage loans  
150 to qualified buyers;

151 (b) as a financially independent body; and

152 (c) so that its debts shall be payable solely from payments received by the corporation  
153 from mortgage borrowers and other revenues generated internally by the corporation[-]; and

154 (12) the corporation shall operate with the power to issue bonds and finance projects  
155 pursuant to Title 11, Chapter 17, Utah Industrial Facilities and Development Act, to:

156 (a) stimulate economic growth;

157 (b) promote employment; and

158 (c) achieve greater development in the state.

159 Section 4. Section **9-4-911** is amended to read:

160 **9-4-911. Corporation -- Additional powers.**

161 (1) To accomplish the declared purposes of this part, the corporation has the following  
162 powers in addition to others granted in this part:

163 (a) to purchase mortgage loans originated by mortgage lenders or local public bodies  
164 made for the purpose of financing the construction, development, rehabilitation, or purchase of  
165 residential housing for low and moderate income persons;

166 (b) to make mortgage loans and to provide financial assistance to housing sponsors for  
167 the purpose of financing the construction, development, rehabilitation, or purchase of  
168 residential housing for low and moderate income persons;

169 (c) to make mortgage loans and provide financial assistance to housing sponsors for the  
170 purpose of financing the operations of a housing development that are necessary or desirable to  
171 enable the housing development to remain available as residential housing for low and  
172 moderate income persons, whether or not the housing development has been financed by the  
173 corporation;

174 (d) to provide financial assistance to any housing authority created under Part 6, which  
175 housing authorities may enter into commitments for and accept loans for a housing project or  
176 projects as defined in Section 9-4-602; and

177 (e) to make mortgage loans and to provide financial assistance to low and moderate  
178 income persons for the construction, rehabilitation, or purchase of residential housing.

179 (2) Bonds to purchase loans pursuant to Subsection (1)(a) shall be issued only after a  
180 determination by the corporation that the loans are not otherwise available upon reasonably  
181 equivalent terms and conditions from private lenders.

182 (3) Loans for owner-occupied housing made pursuant to Subsection (1)(a) may not

183 include a penalty for prepayment.

184 (4) The corporation shall make rules or adopt policies and procedures to govern the  
185 activities authorized under this section including rules, policies, and procedures as to any or all  
186 of the following:

187 (a) procedures for the submission of requests or the invitation of proposals for the  
188 purchase and sale of mortgage loans and the making of mortgage loans;

189 (b) rates, fees, charges, and other terms and conditions of originating or servicing  
190 mortgage loans in order to protect against a realization of an excessive financial return or  
191 benefit by the originator or servicer;

192 (c) the type and amount of collateral, payment bonds, performance bonds, or other  
193 security to be provided for construction loans made by the corporation;

194 (d) the nature and amounts of fees to be charged by the corporation to provide for  
195 expenses and reserves of the corporation;

196 (e) procedures allowing the corporation to prohibit persons who fail to comply with the  
197 rules of the corporation with respect to the operations of any program of the corporation from  
198 participating, either directly or indirectly, in the programs of the corporation;

199 (f) the terms and conditions under which the corporation may purchase and make  
200 mortgage loans under each program of the corporation;

201 (g) the terms and conditions under which the corporation may provide financial  
202 assistance under each program of the corporation;

203 (h) the terms and conditions under which the corporation may guarantee mortgage  
204 loans under each program of the corporation; and

205 (i) any other matters related to the duties or exercise of powers under this section.

206 (5) (a) (i) The trustees of the corporation shall elect the directors, trustees, members, if  
207 any, of each subsidiary.

208 (ii) Service by a trustee of the corporation in any such capacity does not constitute a  
209 conflict of interest for any purpose.

210 (iii) The corporation may delegate any of its powers and duties under this part to any  
211 subsidiary.

212 (iv) Subsidiaries shall constitute legal entities separate and distinct from each other, the  
213 corporation, and the state.

214 (b) Each note, bond, and other obligation of a subsidiary shall contain on its face a  
215 statement to the effect that:

216 (i) the subsidiary is obligated to pay the same solely from the revenues or other funds  
217 of the subsidiary;

218 (ii) neither the corporation nor the state nor any of its political subdivisions is obligated  
219 to pay the same; and

220 (iii) neither the faith and credit nor the taxing power of the state or any of its political  
221 subdivisions is pledged to the payment of principal, or redemption price of, or the interest on  
222 the note, bond, or other obligation.

223 (c) Upon dissolution of any subsidiary of the corporation, any assets shall revert to the  
224 corporation or to any successor to the corporation or, failing this succession, to the state.

225 (6) (a) The corporation may:

226 (i) enter into interest rate contracts that its trustees determine are necessary, convenient,  
227 or appropriate for the control or management of debt or for the cost of servicing debt; and

228 (ii) use corporation funds to satisfy its payment obligations under those contracts.

229 (b) Interest rate contracts may contain payment, security, default, termination, remedy,  
230 and other terms and conditions that the trustees consider appropriate.

231 (c) Neither interest rate contracts nor funds used in connection with interest rate  
232 contracts may be considered a deposit or investment.

233 (7) (a) Subject to Section 9-4-917, the corporation has all the powers set forth in Title  
234 11, Chapter 17, Utah Industrial Facilities and Development Act, of a municipality or county as  
235 though the corporation were defined as a municipality or county for purposes of Chapter 17.

236 (b) The powers include the power to issue bonds and finance projects under Chapter  
237 17.

238 Section 5. Section **9-4-913** is amended to read:

239 **9-4-913. Power to borrow money and make loans -- Issuance of notes and bonds.**

240 (1) The corporation has the power and is authorized to borrow money and to issue from  
241 time to time its notes, bonds, and other obligations in such principal amounts as the corporation  
242 determines is necessary to provide sufficient funds for:

243 (a) the purchase of mortgage loans from mortgage lenders;

244 (b) the making of construction loans;

- 245 (c) the making of loans to housing authorities;
- 246 (d) the payment of interest on bonds, notes, and other obligations of the corporation;
- 247 (e) the establishment of reserves to secure the bonds, notes, and other obligations;
- 248 (f) the making of mortgage loans;
- 249 (g) the making of loans to mortgage lenders or other lending institutions with respect to
- 250 multifamily residential rental housing under terms and conditions requiring the proceeds of
- 251 these loans to be used by these mortgage lenders or other lending institutions for the making of
- 252 loans for new multifamily residential rental housing or the acquisition or rehabilitation of
- 253 existing multifamily residential rental housing;
- 254 (h) the making of loans for the rehabilitation of residential housing; [~~and~~]
- 255 (i) all other expenditures of the corporation incident to and necessary or convenient to
- 256 carry out its purposes and powers[-]; and
- 257 (j) the purpose of financing a project under Title 11, Chapter 17, Utah Industrial
- 258 Facilities and Development Act.
- 259 (2) (a) The corporation shall have the power to issue notes to renew notes and bonds to
- 260 pay notes, including the interest thereon, and whenever it considers refunding expedient, to
- 261 refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have
- 262 not matured, and to issue bonds partly to refund bonds then outstanding and partly for any of its
- 263 corporate purposes.
- 264 (b) The refunding bonds may be:
- 265 (i) sold and the proceeds applied to the purchase, redemption, or payment of the bonds
- 266 to be refunded; or
- 267 (ii) exchanged for the bonds to be refunded.
- 268 (3) (a) Except as may otherwise be expressly provided by the corporation, every issue
- 269 of its notes or bonds shall be general obligations of the corporation payable solely out of any
- 270 revenues or monies of the corporation, subject only to any agreements with the holders of
- 271 particular notes or bonds pledging any particular monies or revenues.
- 272 (b) These bonds or notes may be additionally secured by a pledge of any grant or
- 273 contribution from the federal government or any corporation, association, institution, or person
- 274 or a pledge of any monies, income, or revenues of the corporation from any source.
- 275 (4) (a) The notes and bonds shall be authorized by resolution or resolutions of the

276 corporation, shall bear the date or dates, and shall mature at the time or times as the resolution  
277 or resolutions may provide, except that no note, including any renewals thereof, shall mature  
278 more than five years from the date of its original issue, and no bond shall mature more than 50  
279 years from the date of its issue, as the resolution may provide.

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

285 (c) The notes and bonds of the corporation may be sold by the corporation at public or  
286 private sale, and at the price or prices as the corporation shall determine.

287 (d) (i) The notes and bonds may bear interest at a variable interest rate as the resolution  
288 may provide.

289 (ii) The resolution may establish a method, formula, or index pursuant to which the  
290 interest rate on the notes and bonds may be determined from time to time.

291 (e) In connection with the notes and bonds the corporation may authorize and enter into  
292 agreements or other arrangements with financial, banking, and other institutions for letters of  
293 credit, standby letters of credit, surety bonds, reimbursement agreements, remarketing  
294 agreements, indexing agreements, tender agent agreements, and other agreements with respect  
295 to securing the notes and bonds, with respect to enhancing the marketability and credit  
296 worthiness of the notes and bonds, with respect to determining a variable interest rate on the  
297 notes and bonds, and with respect to the payment from any legally available source (which may  
298 include the proceeds of the notes and bonds) of fees, charges, and other amounts coming due  
299 with respect to any such agreements.

300 (5) Any resolution or resolutions authorizing any notes or bonds or their issue may  
301 contain provisions, which shall be a part of the contract or contracts with their holders, as to:

302 (a) pledging all or any part of the revenues to secure the payment of the notes or bonds  
303 or of any issue thereof, subject to the agreements with noteholders or bondholders as may then  
304 exist;

305 (b) pledging all or any part of the assets of the corporation, including mortgages and  
306 obligations securing the same, to secure the payment of the notes or bonds or of any issue of

- 307 notes or bonds, subject to the agreements with noteholders or bondholders as may then exist;
- 308 (c) the use and disposition of the gross income from mortgages owned by the
- 309 corporation and payment of principal of mortgages owned by the corporation;
- 310 (d) the setting aside of reserves or sinking funds and their regulation and disposition;
- 311 (e) limitations on the purpose to which the proceeds of sale of notes or bonds may be
- 312 applied and pledging the proceeds to secure the payment of the notes or bonds or of their issue;
- 313 (f) limitations on the issuance of additional notes or bonds, including:
- 314 (i) the terms upon which additional notes or bonds may be issued and secured; and
- 315 (ii) the refunding of outstanding or other notes or bonds;
- 316 (g) the procedure, if any, by which the terms of any contract with noteholders or
- 317 bondholders may be amended or abrogated, the amount of notes or bonds to which the holders
- 318 must consent, and the manner in which the consent may be given;
- 319 (h) limitations on the amount of monies to be expended by the corporation for
- 320 operating expenses of the corporation;
- 321 (i) vesting in a trustee or trustees the property, rights, powers, and duties in trust as the
- 322 corporation may determine, which may include any or all of the rights, powers, and duties of
- 323 the trustee appointed by the noteholders or bondholders pursuant to this act and limiting or
- 324 abrogating the right of noteholders or bondholders to appoint a trustee under this act or limiting
- 325 the rights, powers, and duties of the trustee;
- 326 (j) defining the acts or omissions to act which shall constitute a default in the
- 327 obligations and duties of the corporation to the holders of the notes or bonds and providing for
- 328 the rights and remedies of the holders of the notes or bonds in the event of default, including as
- 329 a matter of right the appointment of a receiver; but the rights and remedies may not be
- 330 inconsistent with the general laws of the state and other provisions of this part; or
- 331 (k) any other matters, of like or different character, which in any way affect the security
- 332 or protection of the holders of the notes or bonds.
- 333 (6) (a) Any pledge made by the corporation shall be valid, enforceable, and binding
- 334 from the time when the pledge is made and shall have a lien priority based on the time of grant
- 335 or, if more than one lien is granted at a given time, as set forth in the resolution or instrument
- 336 pursuant to which the pledge is made.
- 337 (b) The revenues, monies, or property so pledged and thereafter received by the

338 corporation shall immediately be subject to the lien of the pledge and shall constitute a  
339 perfected lien without any physical delivery thereof or further act, and the lien of any such  
340 pledge shall be valid and binding as against all parties having claims of any kind in tort,  
341 contract, or otherwise against the corporation, irrespective of whether the parties have notice  
342 thereof.

343 (c) Neither the resolution nor any other instrument by which a pledge is created need  
344 be recorded.

345 (7) The corporation, subject to the agreements with noteholders or bondholders as may  
346 then exist, shall have power out of any funds available for it to purchase notes or bonds of the  
347 corporation, which shall immediately be cancelled, at a price not exceeding:

348 (a) if the notes or bonds are then redeemable, the redemption price then applicable plus  
349 accrued interest to the next interest payment thereon; or

350 (b) if the notes or bonds are not then redeemable, the redemption price applicable on  
351 the first date after the purchase upon which the notes or bonds become subject to redemption  
352 plus accrued interest to the date.

353 (8) (a) The notes and bonds shall be secured by a trust indenture by and between the  
354 corporation and a corporate trustee, which may be any bank having the power of a trust  
355 company or any trust company within or without the state.

356 (b) The trust indenture may contain provisions for protecting and enforcing the rights  
357 and remedies of the noteholders or bondholders as may be reasonable and proper and not in  
358 violation of law, including covenants setting forth the duties of the corporation in relation to  
359 the exercise of its corporate powers and the custody, safeguarding, and application of all  
360 monies.

361 (c) The corporation may provide by the trust indenture for the payment of the proceeds  
362 of the notes or bonds and the revenues to the trustee under the trust indenture or other  
363 depository, and for the method of their disbursement, with any safeguards and restrictions as it  
364 may determine.

365 (d) All expenses incurred in carrying out the trust indenture may be treated as a part of  
366 the operating expenses of the corporation.

367 (e) If the notes or bonds shall be secured by a trust indenture, the noteholders or  
368 bondholders may not have authority to appoint a separate trustee to represent them.

369 (9) Whether or not the notes and bonds are of the form and character as to be  
370 negotiable instruments under the terms of the Uniform Commercial Code, the notes and bonds  
371 are negotiable instruments within the meaning of and for all the purposes of the Uniform  
372 Commercial Code, subject only to the provisions of the notes and bonds relating to registration.

373 (10) In the event that any of the trustees or officers of the corporation shall cease to be  
374 trustees or officers of the corporation prior to the delivery of any notes or bonds or coupons  
375 signed by them, their signatures or facsimiles of their signatures shall nevertheless be valid and  
376 sufficient for all purposes, the same as if the trustees or officers had remained in office until the  
377 delivery.

378 (11) Neither the trustees of the corporation nor any other person executing the notes or  
379 bonds issued under this chapter are subject to personal liability or accountability by reason of  
380 the issuance thereof.

381 (12) The corporation shall have the power to provide for the replacement of lost,  
382 destroyed, or mutilated bonds or notes.

383 Section 6. Section **11-17-2** is amended to read:

384 **11-17-2. Definitions.**

385 As used in this chapter:

386 (1) "Bonds" means bonds, notes, or other evidences of indebtedness.

387 (2) (a) "Finance" or "financing" includes the issuing of bonds by a municipality,  
388 county, or state university for the purpose of using a portion[;] or all [~~or substantially all~~] of the  
389 proceeds to pay for or to reimburse the user or its designee for the costs of the acquisition of  
390 facilities of a project, or to create funds for the project itself where appropriate, whether these  
391 costs are incurred by the municipality, the county, the state university, the user, or a designee of  
392 the user.

393 (b) If title to or in these facilities at all times remains in the user, the bonds of the  
394 municipality or county shall be secured by a pledge of one or more notes, debentures, bonds,  
395 other secured or unsecured debt obligations of the user, or such sinking fund or other  
396 arrangement as in the judgment of the governing body is appropriate for the purpose of  
397 assuring repayment of the bond obligations to investors in accordance with their terms.

398 (3) (a) "Governing body" means the board or body that the general legislative powers  
399 of the municipality or county are vested in.

400           (b) In the case of state universities to which this chapter applies, "governing body"  
401 means the board or body having the control and supervision of the University of Utah and Utah  
402 State University and, with reference to a nonprofit corporation or foundation created by and  
403 operating under the auspices of a state university, the board of directors or board of trustees of  
404 that corporation or foundation.

405           (4) (a) "Industrial park" means land, including all necessary rights, appurtenances,  
406 easements, and franchises relating to it, acquired and developed by any municipality, county, or  
407 state university for the establishment and location of a series of sites for plants and other  
408 buildings for industrial, distribution, and wholesale use.

409           (b) There may be included as part of the development of the land for any industrial  
410 park under this chapter the acquisition and provision of water, sewerage, drainage, street, road,  
411 sidewalk, curb, gutter, street lighting, electrical distribution, railroad, or docking facilities, or  
412 any combination of them, but only to the extent that these facilities are incidental to the use of  
413 the land as an industrial park.

414           (5) "Mortgage" means a mortgage, trust deed, or other security device.

415           (6) "Municipality" means any incorporated city or town in the state, including cities or  
416 towns operating under home rule charters.

417           (7) "Pollution" means any form of environmental pollution including, but not limited  
418 to, water pollution, air pollution, pollution caused by solid waste disposal, thermal pollution,  
419 radiation contamination, or noise pollution.

420           (8) "Project" means:

421           (a) any industrial park, land, interest in land, building, structure, facility, system,  
422 fixture, improvement, appurtenance, machinery, equipment, or any combination of them,  
423 whether or not in existence or under construction:

424           (i) that is suitable for industrial, manufacturing, warehousing, research, business, and  
425 professional office building facilities, commercial, shopping services, food, lodging, low  
426 income rental housing, recreational, or any other business purposes;

427           (ii) that is suitable to provide services to the general public;

428           (iii) that is suitable for use by any corporation, person, or entity engaged in health care  
429 services, including hospitals, nursing homes, extended care facilities, facilities for the care of  
430 persons with a physical or mental disability, and administrative and support facilities; [or]

431 (iv) that is suitable for use by a state university for the purpose of aiding in the  
432 accomplishment of its authorized academic, scientific, engineering, technical, and economic  
433 development functions, but "project" does not include any property, real, personal, or mixed,  
434 for the purpose of the construction, reconstruction, improvement, or maintenance of a public  
435 utility as defined in Section 54-2-1, and except as provided in Subsection (8)(b); or

436 (v) that is suitable for use by a not-for-profit corporation for the purpose of aiding in  
437 the accomplishment of its authorized functions;

438 (b) any land, interest in land, building, structure, facility, system, fixture, improvement,  
439 appurtenance, machinery, equipment, or any combination of them, used by any individual,  
440 partnership, firm, company, corporation, public utility, association, trust, estate, political  
441 subdivision, state agency, or any other legal entity, or its legal representative, agent, or assigns,  
442 for the reduction, abatement, or prevention of pollution, including, but not limited to, the  
443 removal or treatment of any substance in process material, if that material would cause  
444 pollution if used without the removal or treatment;

445 (c) facilities, machinery, or equipment, the manufacturing and financing of which will  
446 maintain or enlarge domestic or foreign markets for Utah industrial products; or

447 (d) any economic development or new venture investment fund to be raised other than  
448 from:

449 (i) municipal or county general fund moneys;

450 (ii) moneys raised under the taxing power of any county or municipality; or

451 (iii) moneys raised against the general credit of any county or municipality.

452 (9) "State university" means the University of Utah and Utah State University and  
453 includes any nonprofit corporation or foundation created by and operating under their authority.

454 (10) "User" means the person, whether natural or corporate, who will occupy, operate,  
455 maintain, and employ the facilities of, or manage and administer a project after the financing,  
456 acquisition, or construction of it, whether as owner, manager, purchaser, lessee, or otherwise.

457 Section 7. Section **11-17-20** is enacted to read:

458 **11-17-20. Powers of Utah Housing Corporation.**

459 (1) For purposes of this chapter and Title 9, Chapter 4, Part 9, Utah Housing  
460 Corporation Act, the Utah Housing Corporation has all the powers set out in this chapter of a  
461 municipality or county as though the corporation were defined as a municipality or county for

462 purposes of this chapter.

463 (2) (a) The powers referred to in Subsection (1) include the power to issue bonds and  
464 finance projects under this chapter.

465 (b) Projects financed by the corporation under this chapter may be located in any  
466 municipality or county in the state.

467 (c) Notices to be published in connection with the issuance of bonds or the financing of  
468 projects under this chapter may be published in a newspaper or newspapers qualified to convey  
469 legal notices, having general circulation in the municipality or county within which the project  
470 is located.

471 (3) The corporation is not authorized to exercise the powers referred to in Subsection  
472 (1) in any manner that would create general obligations of the state or any of its agencies,  
473 departments, divisions, or political subdivisions.

474 (4) For purposes of this chapter, the corporation's governing body is its board of  
475 trustees.

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**Legislative Review Note**

**as of 2-4-03 8:38 AM**

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

**Office of Legislative Research and General Counsel**

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**Fiscal Note**  
**Bill Number SB0166**

**Community and Economic Development Amendments**

*11-Feb-03*

*10:11 AM*

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**State Impact**

No significant fiscal impact.

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**Individual and Business Impact**

No significant fiscal impact.

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**Office of the Legislative Fiscal Analyst**