

COMMUNITY DEVELOPMENT AND RENEWAL

AGENCY AMENDMENTS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to community development and renewal agencies.

Highlighted Provisions:

This bill:

▶ provides an exception to blight study and blight hearing requirements for agencies that find blight based on a finding relating to a superfund site or an inactive industrial site;

▶ prohibits a taxing entity committee from disapproving an agency's finding of blight unless the committee demonstrates that the blight conditions the agency found to exist in the urban renewal project area do not exist;

▶ makes an exception to a combined incremental value limit if the budget is based on a project area where a finding of blight is made because of the presence of a superfund site or an inactive industrial site;

▶ reinstates a provision subjecting community development and renewal agencies to fiscal procedure provisions; and

▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:



28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **17C-1-102**, as last amended by Chapter 254 and renumbered and amended by Chapter
32 359, Laws of Utah 2006

33 **17C-1-402**, as last amended by Chapter 14 and renumbered and amended by Chapter
34 359, Laws of Utah 2006

35 **17C-1-411**, as renumbered and amended by Chapter 359, Laws of Utah 2006

36 **17C-1-412**, as renumbered and amended by Chapter 359, Laws of Utah 2006

37 **17C-1-601**, as renumbered and amended by Chapter 359, Laws of Utah 2006

38 **17C-2-102**, as renumbered and amended by Chapter 359, Laws of Utah 2006

39 **17C-2-106**, as last amended by Chapter 254 and renumbered and amended by Chapter
40 359, Laws of Utah 2006

41 **17C-2-110**, as renumbered and amended by Chapter 359, Laws of Utah 2006

42 **17C-2-202**, as last amended by Chapter 254 and renumbered and amended by Chapter
43 359, Laws of Utah 2006

44 **17C-2-301**, as last amended by Chapter 254 and renumbered and amended by Chapter
45 359, Laws of Utah 2006

46 **17C-2-302**, as renumbered and amended by Chapter 359, Laws of Utah 2006

47 **17C-2-303**, as last amended by Chapter 254 and renumbered and amended by Chapter
48 359, Laws of Utah 2006

49 **17C-2-304**, as renumbered and amended by Chapter 359, Laws of Utah 2006

50

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

52 Section 1. Section **17C-1-102** is amended to read:

53 **17C-1-102. Definitions.**

54 As used in this title:

55 (1) "Adjusted tax increment" means:

56 (a) for tax increment under a pre-July 1, 1993 project area plan, tax increment under
57 Section 17C-1-403, excluding tax increment under Subsection 17C-1-403(3); and

58 (b) for tax increment under a post-June 30, 1993 project area plan, tax increment under

59 Section 17C-1-404, excluding tax increment under Section 17C-1-406.

60 (2) "Affordable housing" means housing to be owned or occupied by persons and
61 families of low or moderate income, as determined by resolution of the agency.

62 (3) "Agency" or "community development and renewal agency" means a separate body
63 corporate and politic, created under Section 17C-1-201 or as a redevelopment agency under
64 previous law, that is a political subdivision of the state, that is created to undertake or promote
65 urban renewal, economic development, or community development, or any combination of
66 them, as provided in this title, and whose geographic boundaries are coterminous with:

67 (a) for an agency created by a county, the unincorporated area of the county; and

68 (b) for an agency created by a city or town, the boundaries of the city or town.

69 (4) "Annual income" has the meaning as defined under regulations of the U.S.

70 Department of Housing and Urban Development, 24 C.F.R. Sec. 5.609, as amended or as
71 superseded by replacement regulations.

72 (5) "Assessment roll" has the meaning as defined in Section 59-2-102.

73 (6) "Base taxable value" means the taxable value of the property within a project area
74 from which tax increment will be collected, as shown upon the assessment roll last equalized
75 before:

76 (a) for a pre-July 1, 1993 project area plan, the effective date of the project area plan;

77 or

78 (b) for a post-June 30, 1993 project area plan:

79 (i) the date of the taxing entity committee's approval of the first project area budget; or

80 (ii) if no taxing entity committee approval is required for the project area budget, the

81 later of:

82 (A) the date the project area plan is adopted by the community legislative body; and

83 (B) the date the agency adopts the first project area budget.

84 (7) "Basic levy" means the portion of a school district's tax levy constituting the
85 minimum basic levy under Section 59-2-902.

86 (8) "Blight" or "blighted" means the condition of an area that meets the requirements of
87 Subsection 17C-2-303(1).

88 (9) "Blight hearing" means a public hearing under Subsection

89 17C-2-102(1)(a)~~(iii)~~(i)(C) and Section 17C-2-302 regarding the existence or nonexistence of

90 blight within the proposed urban renewal project area.

91 (10) "Blight study" means a study to determine the existence or nonexistence of blight
92 within a survey area as provided in Section 17C-2-301.

93 (11) "Board" means the governing body of an agency, as provided in Section
94 17C-1-203.

95 (12) "Budget hearing" means the public hearing on a draft project area budget required
96 under Subsection 17C-2-201(2)(d) for an urban renewal project area budget or Subsection
97 17C-3-201(2)(d) for an economic development project area budget.

98 (13) "Combined incremental value" means the combined total of all incremental values
99 from all urban renewal project areas, except project areas that contain some or all of a military
100 installation or inactive industrial site, within the agency's boundaries under adopted project area
101 plans and adopted project area budgets at the time that a project area budget for a new urban
102 renewal project area is being considered.

103 (14) "Community" means a county, city, or town.

104 (15) "Community development" means development activities within a community,
105 including the encouragement, promotion, or provision of development.

106 (16) "Economic development" means to promote the creation or retention of public or
107 private jobs within the state through:

108 (a) planning, design, development, construction, rehabilitation, business relocation, or
109 any combination of these, within a community; and

110 (b) the provision of office, industrial, manufacturing, warehousing, distribution,
111 parking, public, or other facilities, or other improvements that benefit the state or a community.

112 (17) "Fair share ratio" means the ratio derived by:

113 (a) for a city or town, comparing the percentage of all housing units within the city or
114 town that are publicly subsidized income targeted housing units to the percentage of all
115 housing units within the whole county that are publicly subsidized income targeted housing
116 units; or

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

121 (18) "Family" has the meaning as defined under regulations of the U.S. Department of
122 Housing and Urban Development, 24 C.F.R. Section 5.403, as amended or as superseded by
123 replacement regulations.

124 (19) "Greenfield" means land not developed beyond agricultural or forestry use.

125 (20) "Housing funds" means the funds allocated in an urban renewal project area
126 budget under Section 17C-2-203 for the purposes provided in Subsection 17C-1-412(1).

127 (21) (a) "Inactive industrial site" means land that:

128 (i) consists of at least 1,000 acres;

129 (ii) is occupied by an inactive or abandoned factory, smelter, or other heavy industrial
130 facility; and

131 (iii) requires remediation because of the presence of hazardous or solid waste [as],
132 defined [~~in Subsection 17B-4-604(1)(a)(iii)(F), as last amended by Chapter 292, Laws of Utah~~
133 ~~2005~~] as any substance defined, regulated, or listed as a hazardous substance, hazardous
134 material, hazardous waste, toxic waste, pollutant, contaminant, or toxic substance, or identified
135 as hazardous to human health or the environment under state or federal law or regulation.

136 (b) "Inactive industrial site" includes a perimeter of up to 1,500 feet around the land
137 described in Subsection (21)(a).

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

141 (23) "Incremental value" means a figure derived by multiplying the marginal value of
142 the property located within an urban renewal project area on which tax increment is collected
143 by a number that represents the percentage of adjusted tax increment from that project area that
144 is paid to the agency.

145 (24) "Loan fund board" means the Olene Walker Housing Loan Fund Board,
146 established under Title 9, Chapter 4, Part 7, Olene Walker Housing Loan Fund.

147 (25) "Marginal value" means the difference between actual taxable value and base
148 taxable value.

149 (26) "Military installation project area" means a project area or a portion of a project
150 area located within a federal military installation ordered closed by the federal Defense Base
151 Realignment and Closure Commission.

152 (27) "Plan hearing" means the public hearing on a draft project area plan required
153 under Subsection 17C-2-102(1)(a)~~(viii)~~ (vi) for an urban renewal project area plan,
154 Subsection 17C-3-102(1)(d) for an economic development project area plan, and Subsection
155 17C-4-102(1)(d) for a community development project area plan.

156 (28) "Post-June 30, 1993 project area plan" means a project area plan adopted on or
157 after July 1, 1993, whether or not amended subsequent to its adoption.

158 (29) "Pre-July 1, 1993 project area plan" means a project area plan adopted before July
159 1, 1993, whether or not amended subsequent to its adoption.

160 (30) "Private," with respect to real property, means:

161 (a) not owned by the United States or any agency of the federal government, a public
162 entity, or any other governmental entity; and

163 (b) not dedicated to public use.

164 (31) "Project area" means the geographic area described in a project area plan or draft
165 project area plan where the urban renewal, economic development, or community
166 development, as the case may be, set forth in the project area plan or draft project area plan
167 takes place or is proposed to take place.

168 (32) "Project area budget" means a multiyear projection of annual or cumulative
169 revenues and expenses and other fiscal matters pertaining to a urban renewal or economic
170 development project area that includes:

171 (a) the base taxable value of property in the project area;

172 (b) the projected tax increment expected to be generated within the project area;

173 (c) the amount of tax increment expected to be shared with other taxing entities;

174 (d) the amount of tax increment expected to be used to implement the project area plan,
175 including the estimated amount of tax increment to be used for land acquisition, public
176 improvements, infrastructure improvements, and loans, grants, or other incentives to private
177 and public entities;

178 (e) the tax increment expected to be used to cover the cost of administering the project
179 area plan;

180 (f) if the area from which tax increment is to be collected is less than the entire project
181 area:

182 (i) the tax identification numbers of the parcels from which tax increment will be

183 collected; or

184 (ii) a legal description of the portion of the project area from which tax increment will
185 be collected; and

186 (g) for property that the agency owns and expects to sell, the expected total cost of the
187 property to the agency and the expected selling price.

188 (33) "Project area plan" means a written plan under [~~Part 4, Project Area Plan~~] Chapter
189 2, Part 1, Urban Renewal Project Area Plan, Chapter 3, Part 1, Economic Development Project
190 Area Plan, or Chapter 4, Part 1, Community Development Project Area Plan, as the case may
191 be, that, after its effective date, guides and controls the urban renewal, economic development,
192 or community development activities within a project area.

193 (34) "Property tax" includes privilege tax and each levy on an ad valorem basis on
194 tangible or intangible personal or real property.

195 (35) "Public entity" means:

196 (a) the state, including any of its departments or agencies; or

197 (b) a political subdivision of the state, including a county, city, town, school district,
198 special district, local district, or interlocal cooperation entity.

199 (36) "Publicly owned infrastructure and improvements" means water, sewer, storm
200 drainage, electrical, and other similar systems and lines, streets, roads, curb, gutter, sidewalk,
201 walkways, parking facilities, public transportation facilities, and other facilities, infrastructure,
202 and improvements benefitting the public and to be publicly owned or publicly maintained or
203 operated.

204 (37) "Record property owner" or "record owner of property" means the owner of real
205 property as shown on the records of the recorder of the county in which the property is located
206 and includes a purchaser under a real estate contract if the contract is recorded in the office of
207 the recorder of the county in which the property is located or the purchaser gives written notice
208 of the real estate contract to the agency.

209 (38) "Superfund site":

210 (a) means an area included in the National Priorities List under the Comprehensive
211 Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sec. 9605; and

212 (b) includes an area formerly included in the National Priorities List, as described in
213 Subsection (38)(a), but removed from the list following remediation that leaves on site the

214 waste that caused the area to be included in the National Priorities List.

215 (39) "Survey area" means an area designated by a survey area resolution for study to
216 determine whether one or more urban renewal projects within the area are feasible.

217 (40) "Survey area resolution" means a resolution adopted by the agency board under
218 Subsection 17C-2-101(1)(a) designating a survey area.

219 (41) "Taxable value" means the value of property as shown on the last equalized
220 assessment roll as certified by the county assessor.

221 (42) (a) "Tax increment" means, except as provided in Subsection (42)(b), the
222 difference between:

223 (i) the amount of property tax revenues generated each tax year by all taxing entities
224 from the area within a project area designated in the project area plan as the area from which
225 tax increment is to be collected, using the current assessed value of the property; and

226 (ii) the amount of property tax revenues that would be generated from that same area
227 using the base taxable value of the property.

228 (b) "Tax increment" does not include taxes levied and collected under Section
229 59-2-906.1 on or after January 1, 1994 upon the taxable property in the project area unless:

230 (i) the project area plan was adopted before May 4, 1993, whether or not the project
231 area plan was subsequently amended; and

232 (ii) the taxes were pledged to support bond indebtedness or other contractual
233 obligations of the agency.

234 (43) "Taxing entity" means a public entity that levies a tax on property within a
235 community.

236 (44) "Taxing entity committee" means a committee representing the interests of taxing
237 entities, created as provided in Section 17C-1-402.

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

239 (46) (a) "Urban renewal" means the development activities under a project area plan
240 within an urban renewal project area, including:

241 (i) planning, design, development, demolition, clearance, construction, rehabilitation,
242 or any combination of these, of part or all of a project area;

243 (ii) the provision of residential, commercial, industrial, public, or other structures or
244 spaces, including recreational and other facilities incidental or appurtenant to them;

245 (iii) altering, improving, modernizing, demolishing, reconstructing, or rehabilitating, or
246 any combination of these, existing structures in a project area;

247 (iv) providing open space, including streets and other public grounds and space around
248 buildings;

249 (v) providing public or private buildings, infrastructure, structures, and improvements;
250 and

251 (vi) providing improvements of public or private recreation areas and other public
252 grounds.

253 (b) "Urban renewal" means "redevelopment," as defined under the law in effect before
254 May 1, 2006, if the context requires.

255 Section 2. Section **17C-1-402** is amended to read:

256 **17C-1-402. Taxing entity committee.**

257 (1) Each agency that adopts or proposes to adopt a post-June 30, 1993 urban renewal or
258 economic development project area plan shall, and any other agency may, cause a taxing entity
259 committee to be created.

260 (2) (a) (i) Each taxing entity committee shall be composed of:

261 (A) two school district representatives appointed as provided in Subsection (2)(a)(ii);

262 (B) (I) in a county of the second, third, fourth, fifth, or sixth class, two representatives
263 appointed by resolution of the legislative body of the county in which the agency is located; or

264 (II) in a county of the first class, one representative appointed by the county executive
265 and one representative appointed by the legislative body of the county in which the agency is
266 located;

267 (C) if the agency was created by a city or town, two representatives appointed by
268 resolution of the legislative body of that city or town;

269 (D) one representative appointed by the State Board of Education; and

270 (E) one representative selected by majority vote of the legislative bodies or governing
271 boards of all other taxing entities that levy a tax on property within the agency's boundaries, to
272 represent the interests of those taxing entities on the taxing entity committee.

273 (ii) (A) If the agency boundaries include only one school district, that school district
274 shall appoint the two school district representatives under Subsection (2)(a)(i)(A).

275 (B) If the agency boundaries include more than one school district, those school

276 districts shall jointly appoint the two school district representatives under Subsection
277 (2)(a)(i)(A).

278 (b) (i) Each taxing entity committee representative under Subsection (2)(a) shall be
279 appointed within 30 days after the agency provides notice of the creation of the taxing entity
280 committee.

281 (ii) If a representative is not appointed within the time required under Subsection
282 (2)(b)(i), the agency board may appoint a person to serve on the taxing entity committee in the
283 place of the missing representative until that representative is appointed.

284 (c) (i) A taxing entity committee representative may be appointed for a set term or
285 period of time, as determined by the appointing authority under Subsection (2)(a)(i).

286 (ii) Each taxing entity committee representative shall serve until a successor is
287 appointed and qualified.

288 (d) (i) Upon the appointment of each representative under Subsection (2)(a)(i), whether
289 an initial appointment or an appointment to replace an already serving representative, the
290 appointing authority shall:

291 (A) notify the agency in writing of the name and address of the newly appointed
292 representative; and

293 (B) provide the agency a copy of the resolution making the appointment or, if the
294 appointment is not made by resolution, other evidence of the appointment.

295 (ii) Each appointing authority of a taxing entity committee representative under
296 Subsection (2)(a)(i) shall notify the agency in writing of any change of address of a
297 representative appointed by that appointing authority.

298 (3) A taxing entity committee represents all taxing entities regarding an urban renewal
299 or economic development project area and may:

300 (a) cast votes that will be binding on all taxing entities;

301 (b) negotiate with the agency concerning a draft project area plan;

302 (c) approve or disapprove a project area budget as provided in Section 17C-2-204 for
303 an urban renewal project area budget and Section 17C-3-203 for an economic development
304 project area budget;

305 (d) approve or disapprove amendments to a project area budget as provided in Section
306 17C-2-206 for an urban renewal project area budget and Section 17C-3-205 for an economic

307 development project area budget;

308 (e) approve exceptions to the limits on the value and size of a project area imposed
309 under this title;

310 (f) approve exceptions to the percentage of tax increment and the period of time that
311 tax increment is paid to the agency as provided in this title;

312 (g) approve the use of tax increment for publicly owned infrastructure and
313 improvements outside of an urban renewal or economic development project area that the
314 agency and community legislative body determine to be of benefit to the urban renewal or
315 economic development project area, as provided in Subsection 17C-1-409(1)(a)(iii)(D);

316 (h) waive the restrictions imposed by Subsection 17C-2-202(1); and

317 (i) give other taxing entity committee approval or consent required or allowed under
318 this title.

319 (4) A quorum of a taxing entity committee consists of:

320 (a) if the urban renewal or economic development project area is located within a city
321 or town, five members; or

322 (b) if the urban renewal or economic development project area is not located within a
323 city or town, four members.

324 (5) Taxing entity committee approval, consent, or other action requires the affirmative
325 vote of two-thirds of all members present at a taxing entity committee meeting at which a
326 quorum is present.

327 (6) (a) An agency may call a meeting of the taxing entity committee by sending written
328 notice to the members of the taxing entity committee at least ten days before the date of the
329 meeting.

330 (b) Each notice under Subsection (6)(a) shall be accompanied by:

331 (i) the proposed agenda for the taxing entity committee meeting; and

332 (ii) if not previously provided and if they exist and are to be considered at the meeting:

333 (A) the urban renewal or economic development project area plan or proposed plan;

334 (B) the urban renewal or economic development project area budget or proposed
335 budget;

336 (C) the analysis required under Subsection 17C-2-103(2) or 17C-3-103(2);

337 (D) the blight study;

338 (E) the agency's resolution making a finding of blight under Subsection
339 17C-2-102(1)(a)[~~(iv)~~] (ii)(B); and

340 (F) other documents to be considered by the taxing entity committee at the meeting.

341 (7) (a) A taxing entity committee may not vote on a proposed urban renewal or
342 economic development project area budget or proposed amendment to an urban renewal or
343 economic development project area budget at the first meeting at which the proposed budget or
344 amendment is considered unless all members of the taxing entity committee present at the
345 meeting consent.

346 (b) A second taxing entity committee meeting to consider an urban renewal or
347 economic development project area budget or a proposed amendment to an urban renewal or
348 economic development project area budget may not be held within 14 days after the first
349 meeting unless all members of the taxing entity committee present at the first meeting consent.

350 (8) Each taxing entity committee shall meet at least annually during the time that the
351 agency receives tax increment under an urban renewal or economic development project area
352 budget in order to review the status of the project area.

353 (9) Each taxing entity committee shall be governed by Title 52, Chapter 4, Open and
354 Public Meetings Act.

355 (10) Each time a school district representative or a representative of the State Board of
356 Education votes as a member of a taxing entity committee to allow an agency to be paid tax
357 increment or to increase the amount or length of time that an agency may be paid tax
358 increment, that representative shall, within 45 days after the vote, provide to the
359 representative's respective school board an explanation in writing of the representative's vote
360 and the reasons for the vote.

361 (11) (a) The auditor of each county in which the agency is located shall provide a
362 written report to the taxing entity committee stating, with respect to property within each urban
363 renewal and economic development project area:

364 (i) the base taxable value, as adjusted by any adjustments under Section 17C-1-408;
365 and

366 (ii) the assessed value.

367 (b) With respect to the information required under Subsection (11)(a), the auditor shall
368 provide:

369 (i) actual amounts for each year from the adoption of the urban renewal and economic
370 development project area plan to the time of the report; and

371 (ii) estimated amounts for each year beginning the year after the time of the report and
372 ending the time that the agency expects no longer to be paid tax increment from property
373 within the urban renewal and economic development project area.

374 (c) The auditor of the county in which the agency is located shall provide a report
375 under this Subsection (11):

376 (i) at least annually; and

377 (ii) upon request of the taxing entity committee, before a taxing entity committee
378 meeting at which the committee will consider whether to allow the agency to be paid tax
379 increment or to increase the amount of tax increment that the agency may be paid or the length
380 of time that the agency may be paid tax increment.

381 (12) This section does not apply to a community development project area plan.

382 Section 3. Section **17C-1-411** is amended to read:

383 **17C-1-411. Agency may use tax increment for housing costs in other project**
384 **areas -- Funds to be held in separate accounts.**

385 (1) An agency may:

386 (a) use tax increment from a project area to pay all or part of the value of the land for
387 and the cost of installation, construction, and rehabilitation of any building, facility, structure,
388 or other housing improvement, including infrastructure improvements related to housing,
389 located in any project area within the agency's boundaries; and

390 (b) use up to 20% of tax increment outside of project areas for the purpose of:

391 (i) replacing housing units lost by urban renewal, economic development~~[, or]~~;

392 (ii) community development, or increasing, improving, and preserving generally the
393 affordable housing supply of the community that created the agency~~[-]; or~~

394 (iii) relocating mobile home park residents displaced by an urban renewal, economic
395 development, or community development project.

396 (2) (a) Each agency shall separately account for funds allocated under this section.

397 (b) Interest earned by the housing fund and any payments or repayments made to the
398 agency for loans, advances, or grants of any kind from the fund, shall accrue to the housing
399 fund.

400 (c) Each agency designating a housing fund under this section shall use the fund for:

401 (i) the purposes set forth in this section; or

402 (ii) the purposes set forth in this title relating to the urban renewal, economic
403 development, or community development project area from which the funds originated.

404 (3) An agency may lend, grant, or contribute funds from the housing fund to a person,
405 public entity, housing authority, private entity or business, or nonprofit corporation for
406 affordable housing.

407 Section 4. Section 17C-1-412 is amended to read:

408 **17C-1-412. Income targeted housing -- Agency may use tax increment for income**
409 **targeted housing.**

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

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

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

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

418 (iv) replace housing units lost as a result of the urban renewal, economic development,
419 or community development;

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

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

423 (B) all or part of the proceeds of which are used within the community for the purposes
424 stated in Subsection (1)(a)(i), (ii), (iii), or (iv); ~~[or]~~

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

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

429 (B) all or part of the proceeds of which were used within the community for the
430 purposes stated in Subsection (1)(a)(i), (ii), (iii), or (iv)~~[-]; or~~

431 (vii) relocate mobile home park residents displaced by an urban renewal, economic
432 development, or community development project.

433 (b) As an alternative to the requirements of Subsection (1)(a), an agency may pay all or
434 any portion of housing funds to:

435 (i) the community for use as provided under Subsection (1)(a);

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

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

441 (2) The agency or community shall separately account for the housing funds, together
442 with all interest earned by the housing funds and all payments or repayments for loans,
443 advances, or grants from the housing funds.

444 (3) In using housing funds under Subsection (1)(a), an agency may lend, grant, or
445 contribute housing funds to a person, public body, housing authority, private entity or business,
446 or nonprofit organization for use as provided in Subsection (1)(a).

447 (4) An agency may:

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

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

453 (5) (a) If an agency fails to provide housing funds in accordance with the project area
454 budget and, if applicable, the housing plan adopted under Subsection 17C-2-204(2), the loan
455 fund board may bring legal action to compel the agency to provide the housing funds.

456 (b) In an action under Subsection (5)(a), the court:

457 (i) shall award the loan fund board a reasonable [~~attorney's~~] attorney fee, unless the
458 court finds that the action was frivolous; and

459 (ii) may not award the agency its [~~attorney's~~] attorney fees, unless the court finds that
460 the action was frivolous.

461 Section 5. Section **17C-1-601** is amended to read:

462 **17C-1-601. Annual agency budget -- Fiscal year -- Public hearing required --**
463 **Auditor forms -- Requirement to file form.**

464 (1) Each agency shall prepare and its board adopt an annual budget of revenues and
465 expenditures for the agency for each fiscal year.

466 (2) Each annual agency budget shall be adopted:

467 (a) for an agency created by a city or town, before June 22; or

468 (b) for an agency created by a county, before December 15.

469 (3) The agency's fiscal year shall be the same as the fiscal year of the community that
470 created the agency.

471 (4) (a) Before adopting an annual budget, each agency board shall hold a public hearing
472 on the annual budget.

473 (b) Each agency shall provide notice of the public hearing on the annual budget by:

474 (i) publishing at least one notice in a newspaper of general circulation within the
475 agency boundaries, one week before the public hearing; or

476 (ii) if there is no newspaper of general circulation within the agency boundaries,
477 posting a notice of the public hearing in at least three public places within the agency
478 boundaries.

479 (c) Each agency shall make the annual budget available for public inspection at least
480 three days before the date of the public hearing.

481 (5) The state auditor shall prescribe the budget forms and the categories to be contained
482 in each agency budget, including:

483 (a) revenues and expenditures for the budget year;

484 (b) legal fees; and

485 (c) administrative costs, including rent, supplies, and other materials, and salaries of
486 agency personnel.

487 (6) (a) Within 30 days after adopting an annual budget, each agency board shall file a
488 copy of the annual budget with the auditor of the county in which the agency is located, the
489 State Tax Commission, the state auditor, the State Board of Education, and each taxing entity
490 that levies a tax on property from which the agency collects tax increment.

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

493 state auditor.

494 (7) Each agency is subject to the provisions of Title 17B, Chapter 1, Fiscal Procedures
 495 for Local Districts, to the same extent as if the agency were a local district.

496 Section 6. Section **17C-2-102** is amended to read:

497 **17C-2-102. Process for adopting urban renewal project area plan -- Prerequisites**
 498 **-- Restrictions.**

499 (1) (a) In order to adopt an urban renewal project area plan, after adopting a resolution
 500 under Subsection 17C-2-101(1) the agency shall:

501 (i) unless a finding of blight is based on a finding made under Subsection
 502 17C-2-303(1)(b) relating to a superfund site or an inactive industrial site:

503 (A) cause a blight study to be conducted within the survey area as provided in Section
 504 17C-2-301;

505 [(ii)] (B) provide notice of a blight hearing as required under Part 5, Urban Renewal
 506 Notice Requirements; and

507 [(iii)] (C) hold a blight hearing as provided in Section 17C-2-302; [~~and~~]

508 [(iv)] (ii) after the blight hearing has been held or, if no blight hearing is required under
 509 Subsection (1)(a)(i), after adopting a resolution under Subsection 17C-2-101(1), hold a board
 510 meeting[~~, either in conjunction with the blight hearing or at a subsequent board meeting,~~] at
 511 which the board shall:

512 (A) consider:

513 (I) the issue of blight and the evidence and information relating to the existence or
 514 nonexistence of blight; and

515 (II) whether adoption of one or more urban renewal project area plans should be
 516 pursued; and

517 (B) by resolution:

518 (I) make a finding regarding the existence of blight in the proposed urban renewal
 519 project area;

520 (II) select one or more project areas comprising part or all of the survey area; and

521 (III) authorize the preparation of a draft project area plan for each project area;

522 [(v)] (iii) prepare a draft of a project area plan and conduct any examination,

523 investigation, and negotiation regarding the project area plan that the agency considers

524 appropriate;

525 [~~(vi)~~] (iv) make the draft project area plan available to the public at the agency's offices
526 during normal business hours;

527 [~~(vii)~~] (v) provide notice of the plan hearing as provided in Sections 17C-2-502 and
528 17C-2-504;

529 [~~(viii)~~] (vi) hold a public hearing on the draft project area plan and, at that public
530 hearing:

531 (A) allow public comment on:

532 (I) the draft project area plan; and

533 (II) whether the draft project area plan should be revised, approved, or rejected; and

534 (B) receive all written and hear all oral objections to the draft project area plan;

535 [~~(ix)~~] (vii) before holding the plan hearing, provide an opportunity for the State Board
536 of Education and each taxing entity that levies a tax on property within the proposed project
537 area to consult with the agency regarding the draft project area plan;

538 [~~(x)~~] (viii) if applicable, hold the election required under Subsection 17C-2-105(3);

539 [~~(xi)~~] (ix) after holding the plan hearing, at the same meeting or at a subsequent
540 meeting consider:

541 (A) the oral and written objections to the draft project area plan and evidence and
542 testimony for and against adoption of the draft project area plan; and

543 (B) whether to revise, approve, or reject the draft project area plan;

544 [~~(xii)~~] (x) approve the draft project area plan, with or without revisions, as the project
545 area plan by a resolution that complies with Section 17C-2-106; and

546 [~~(xiii)~~] (xi) submit the project area plan to the community legislative body for
547 adoption.

548 (b) (i) If an agency makes a finding under Subsection (1)(a)[~~(iv)~~] (ii)(B) that blight
549 exists in the proposed urban renewal project area, the agency may not adopt the project area
550 plan until the taxing entity committee approves the finding of blight.

551 (ii) A taxing entity committee may not disapprove an agency's finding of blight unless
552 the committee demonstrates that the conditions the agency found to exist in the urban renewal
553 project area that support the agency's finding of blight under Section 17C-2-303 do not exist.

554 (2) An agency may not propose a project area plan under Subsection (1) unless the

555 community in which the proposed project area is located:

556 (a) has a planning commission; and

557 (b) has adopted a general plan under:

558 (i) if the community is a city or town, Title 10, Chapter 9a, Part 4, General Plan; or

559 (ii) if the community is a county, Title 17, Chapter 27a, Part 4, General Plan.

560 (3) (a) Subject to Subsection (3)(b), an agency board may not approve a project area
561 plan more than one year after adoption of a resolution making a finding of blight under
562 Subsection (1)(a)[~~(iv)~~] (ii)(B).

563 (b) If a project area plan is submitted to an election under Subsection 17C-2-105(3),
564 the time between the plan hearing and the date of the election does not count for purposes of
565 calculating the year period under Subsection (3)(a).

566 (4) (a) Except as provided in Subsection (4)(b), a draft project area plan may not be
567 modified to add real property to the proposed project area unless the board holds a plan hearing
568 to consider the addition and gives notice of the plan hearing as required under Sections
569 17C-2-502 and 17C-2-504.

570 (b) The notice and hearing requirements under Subsection (4)(a) do not apply to a draft
571 project area plan being modified to add real property to the proposed project area if:

572 (i) the property is contiguous to the property already included in the proposed project
573 area under the draft project area plan;

574 (ii) the record owner of the property consents to adding the real property to the
575 proposed project area; and

576 (iii) the property is located within the survey area.

577 Section 7. Section **17C-2-106** is amended to read:

578 **17C-2-106. Board resolution approving urban renewal project area plan --**

579 **Requirements.**

580 Each board resolution approving a draft urban renewal project area plan as the project
581 area plan under Subsection 17C-2-102(1)(a)[~~(xii)~~] (x) shall contain:

582 (1) a legal description of the boundaries of the project area that is the subject of the
583 project area plan;

584 (2) the agency's purposes and intent with respect to the project area;

585 (3) the project area plan incorporated by reference;

586 (4) a statement that the board previously made a finding of blight within the project
587 area and the date of the board's finding of blight; and

588 (5) the board findings and determinations that:

589 (a) there is a need to effectuate a public purpose;

590 (b) there is a public benefit under the analysis described in Subsection 17C-2-103(2);

591 (c) it is economically sound and feasible to adopt and carry out the project area plan;

592 (d) the project area plan conforms to the community's general plan; and

593 (e) carrying out the project area plan will promote the public peace, health, safety, and

594 welfare of the community in which the project area is located.

595 Section 8. Section **17C-2-110** is amended to read:

596 **17C-2-110. Amending an urban renewal project area plan.**

597 (1) An adopted urban renewal project area plan may be amended as provided in this
598 section.

599 (2) If an agency proposes to amend an adopted urban renewal project area plan to
600 enlarge the project area:

601 (a) subject to Subsection (2)(e), the requirements under this part that apply to adopting
602 a project area plan apply equally to the proposed amendment as if it were a proposed project
603 area plan;

604 (b) for a pre-July 1, 1993 project area plan, the base year taxable value for the new area
605 added to the project area shall be determined under Subsection 17C-1-102(6)(a) using the
606 effective date of the amended project area plan;

607 (c) for a post-June 30, 1993 project area plan:

608 (i) the base year taxable value for the new area added to the project area shall be
609 determined under Subsection 17C-1-102(6)(b) using the date of the taxing entity committee's
610 consent referred to in Subsection (2)(c)(ii); and

611 (ii) the agency shall obtain the consent of the taxing entity committee before the agency
612 may collect tax increment from the area added to the project area by the amendment;

613 (d) the agency shall make a finding regarding the existence of blight in the area
614 proposed to be added to the project area by following the procedure set forth in Subsections
615 17C-2-102(1)(a)(i) [~~through (iv)~~] and (ii); and

616 (e) the agency need not make a finding regarding the existence of blight in the project

617 area as described in the original project area plan, if the agency made a finding of the existence
618 of blight regarding that project area in connection with adoption of the original project area
619 plan.

620 (3) If a proposed amendment does not propose to enlarge an urban renewal project area,
621 an agency board may adopt a resolution approving an amendment to an adopted project area
622 plan after:

623 (a) the agency gives notice, as provided in Section 17C-2-502, of the proposed
624 amendment and of the public hearing required by Subsection (3)(b);

625 (b) the agency board holds a public hearing on the proposed amendment that meets the
626 requirements of a plan hearing;

627 (c) the agency obtains the taxing entity committee's consent to the amendment, if the
628 amendment proposes:

629 (i) to enlarge the area within the project area from which tax increment is collected;

630 (ii) to permit the agency to receive a greater percentage of tax increment or to receive
631 tax increment for a longer period of time, or both, than allowed under the adopted project area
632 plan; or

633 (iii) for an amendment to a project area plan that was adopted before April 1, 1983, to
634 expand the area from which tax increment is collected to exceed 100 acres of private property;
635 and

636 (d) the agency obtains the consent of the legislative body or governing board of each
637 taxing entity affected, if the amendment proposes to permit the agency to receive, from less
638 than all taxing entities, a greater percentage of tax increment or to receive tax increment for a
639 longer period of time, or both, than allowed under the adopted project area plan.

640 (4) (a) An adopted urban renewal project area plan may be amended without
641 complying with the notice and public hearing requirements of Subsections (2)(a) and (3)(a) and
642 (b) and without obtaining taxing entity committee approval under Subsection (3)(c) if the
643 amendment:

644 (i) makes a minor adjustment in the legal description of a project area boundary
645 requested by a county assessor or county auditor to avoid inconsistent property boundary lines;
646 or

647 (ii) subject to Subsection (4)(b), removes a parcel of real property from a project area

648 because the agency determines that:

649 (A) the parcel is no longer blighted; or

650 (B) inclusion of the parcel is no longer necessary or desirable to the project area.

651 (b) An amendment removing a parcel of real property from a project area under
652 Subsection (4)(a)(ii) may not be made without the consent of the record property owner of the
653 parcel being removed.

654 (5) (a) An amendment approved by board resolution under this section may not take
655 effect until adopted by ordinance of the legislative body of the community in which the project
656 area that is the subject of the project area plan being amended is located.

657 (b) Upon a community legislative body passing an ordinance adopting an amendment
658 to a project area plan, the agency whose project area plan was amended shall comply with the
659 requirements of Section 17C-2-109 to the same extent as if the amendment were a project area
660 plan.

661 Section 9. Section **17C-2-202** is amended to read:

662 **17C-2-202. Combined incremental value -- Restriction against adopting an urban**
663 **renewal project area budget -- Taxing entity committee may waive restriction.**

664 (1) Except as provided in Subsection (2), an agency may not adopt an urban renewal
665 project area budget if, at the time the urban renewal project area budget is being considered, the
666 combined incremental value for the agency exceeds 10% of the total taxable value of property
667 within the agency's boundaries in the year that the urban renewal project area budget is being
668 considered.

669 (2) (a) A taxing entity committee may waive the restrictions imposed by Subsection
670 (1).

671 (b) Subsection (1) does not apply to an urban renewal project area budget if the
672 agency's finding of blight in the project area to which the budget relates is based solely on a
673 finding under Subsection 17C-2-303(1)(b).

674 Section 10. Section **17C-2-301** is amended to read:

675 **17C-2-301. Blight study -- Requirements -- Deadline.**

676 (1) Each blight study required under Subsection 17C-2-102(1)(a)(i)(A) shall:

677 (a) undertake a parcel by parcel survey of the survey area;

678 (b) provide data so the board and taxing entity committee may determine:

679 (i) whether the conditions described in Subsection 17C-2-303(1):
680 (A) exist in part or all of the survey area; and
681 (B) qualify an area within the survey area as a project area; and
682 (ii) whether the survey area contains all or part of a superfund site or an inactive
683 industrial site;
684 (c) include a written report setting forth:
685 (i) the conclusions reached;
686 (ii) any recommended area within the survey area qualifying as a project area; and
687 (iii) any other information requested by the agency to determine whether an urban
688 renewal project area is feasible; and
689 (d) be completed within one year after the adoption of the survey area resolution.
690 (2) (a) If a blight study is not completed within one year after the adoption of the
691 resolution under Subsection 17C-2-101(1) designating a survey area, the agency may not
692 approve an urban renewal project area plan based on that blight study unless it first adopts a
693 new resolution under Subsection 17C-2-101(1).
694 (b) A new resolution under Subsection (2)(a) shall in all respects be considered to be a
695 resolution under Subsection 17C-2-101(1) adopted for the first time, except that any actions
696 taken toward completing a blight study under the resolution that the new resolution replaces
697 shall be considered to have been taken under the new resolution.
698 Section 11. Section **17C-2-302** is amended to read:
699 **17C-2-302. Blight hearing -- Owners may review evidence of blight.**
700 (1) In each hearing required under Subsection 17C-2-102(1)(a)[~~(iii)~~](i)(C), the agency
701 shall:
702 (a) permit all evidence of the existence or nonexistence of blight within the proposed
703 urban renewal project area to be presented; and
704 (b) permit each record owner of property located within the proposed urban renewal
705 project area or the record property owner's representative the opportunity to:
706 (i) examine and cross-examine witnesses providing evidence of the existence or
707 nonexistence of blight; and
708 (ii) present evidence and testimony, including expert testimony, concerning the
709 existence or nonexistence of blight.

710 (2) The agency shall allow record owners of property located within a proposed urban
711 renewal project area the opportunity, for at least 30 days before the hearing, to review the
712 evidence of blight compiled by the agency or by the person or firm conducting the blight study
713 for the agency, including any expert report.

714 Section 12. Section **17C-2-303** is amended to read:

715 **17C-2-303. Conditions on board determination of blight -- Conditions of blight**
716 **caused by the developer.**

717 (1) An agency board may not make a finding of blight in a resolution under Subsection
718 17C-2-102(1)(a)(ii)(B) unless the board finds that:

719 (a) (i) the proposed project area consists predominantly of nongreenfield parcels;

720 (ii) the proposed project area is currently zoned for urban purposes and generally
721 served by utilities;

722 (iii) at least 50% of the parcels within the proposed project area contain nonagricultural
723 or nonaccessory buildings or improvements used or intended for residential, commercial,
724 industrial, or other urban purposes, or any combination of those uses;

725 (iv) the present condition or use of the proposed project area substantially impairs the
726 sound growth of the municipality, retards the provision of housing accommodations, or
727 constitutes an economic liability or is detrimental to the public health, safety, or welfare, as
728 shown by the existence within the proposed project area of at least four of the following
729 factors:

730 (A) one of the following, although sometimes interspersed with well maintained
731 buildings and infrastructure:

732 (I) substantial physical dilapidation, deterioration, or defective construction of
733 buildings or infrastructure; or

734 (II) significant noncompliance with current building code, safety code, health code, or
735 fire code requirements or local ordinances;

736 (B) unsanitary or unsafe conditions in the proposed project area that threaten the
737 health, safety, or welfare of the community;

738 (C) environmental hazards, as defined in state or federal law, that require remediation
739 as a condition for current or future use and development;

740 (D) excessive vacancy, abandoned buildings, or vacant lots within an area zoned for

741 urban use and served by utilities;

742 (E) abandoned or outdated facilities that pose a threat to public health, safety, or
743 welfare;

744 (F) criminal activity in the project area, higher than that of comparable nonblighted
745 areas in the municipality or county; and

746 (G) defective or unusual conditions of title rendering the title nonmarketable; and

747 (v) (A) at least 50% of the parcels within the proposed project area are affected by at
748 least one of the factors, but not necessarily the same factor, listed in Subsection (1)(a)(iv); and

749 (B) the affected parcels comprise at least 66% of the acreage of the proposed project
750 area; or

751 (b) the proposed project area includes some or all of a superfund site or an inactive
752 industrial site.

753 (2) No single parcel comprising 10% or more of the acreage of the proposed project
754 area may be counted as satisfying Subsection (1)(a)(iii) or (iv) unless at least 50% of the area of
755 that parcel is occupied by buildings or improvements.

756 (3) (a) For purposes of Subsection (1), if a developer involved in the urban renewal
757 project has caused a condition listed in Subsection (1)(a)(iv) within the proposed project area,
758 that condition may not be used in the determination of blight.

759 (b) Subsection (3)(a) does not apply to a condition that was caused by an owner or
760 tenant who becomes a developer.

761 Section 13. Section **17C-2-304** is amended to read:

762 **17C-2-304. Challenging a finding of blight -- Time limit -- De novo review.**

763 (1) If the board makes a finding of blight under Subsection 17C-2-102(1)(a)(ii)(B) and
764 that finding is approved by resolution adopted by the taxing entity committee, a record owner
765 of property located within the proposed urban renewal project area may challenge the finding
766 by filing an action with the district court for the county in which the property is located.

767 (2) Each challenge under Subsection (1) shall be filed within 30 days after the taxing
768 entity committee approves the board's finding of blight.

769 (3) In each action under this section, the district court shall review the finding of blight
770 under the standards of review provided in Subsection 10-9a-801(3).

Legislative Review Note
as of 1-25-07 6:37 AM

Office of Legislative Research and General Counsel

S.B. 218 - Community Development and Renewal Agency Amendments

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for businesses or local governments. Provisions in the bill does allow the use of tax increment funds to assist mobile home park residents displaced by urban renewal or certain other development projects.
