

**Representative Jeremy A. Peterson** proposes the following substitute bill:

**TAX INCREMENT AMENDMENTS**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jeremy A. Peterson**

Senate Sponsor: Curtis S. Bramble

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**LONG TITLE**

**General Description:**

This bill addresses tax increment under community development and renewal agency provisions.

**Highlighted Provisions:**

This bill:

- modifies the definition of "tax increment"; and
- makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**17C-1-102**, as last amended by Laws of Utah 2012, Chapters 212 and 235

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

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

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



As used in this title:

(1) "Adjusted tax increment" means:

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

(b) for tax increment under a post-June 30, 1993, project area plan, tax increment under Section 17C-1-404, excluding tax increment under Section 17C-1-406.

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

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

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

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

(4) "Annual income" has the meaning as defined under regulations of the United States Department of Housing and Urban Development, 24 C.F.R. Sec. 5.609, as amended or as superseded by replacement regulations.

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

(6) "Base taxable value" means:

(a) unless otherwise designated by the taxing entity committee in accordance with Subsection 17C-1-402(4)(b)(ix), for an urban renewal or economic development project area, the taxable value of the property within a project area from which tax increment will be collected, as shown upon the assessment roll last equalized before:

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

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

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

or

(B) if no taxing entity committee approval is required for the project area budget, the later of:

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

- 57 (II) the date the agency adopts the first project area budget;  
58 (iii) for a project on an inactive industrial site, a year after the date on which the  
59 inactive industrial site is sold for remediation and development; or  
60 (iv) for a project on an inactive airport site, a year after the later of:  
61 (A) the date on which the inactive airport site is sold for remediation and development;  
62 and  
63 (B) the date on which the airport that had been operated on the inactive airport site  
64 ceased operations; and  
65 (b) for a community development project area, the agreed value specified in a  
66 resolution or interlocal agreement under Subsection 17C-4-201(2).  
67 (7) "Basic levy" means the portion of a school district's tax levy constituting the  
68 minimum basic levy under Section 59-2-902.  
69 (8) "Blight" or "blighted" means the condition of an area that meets the requirements of  
70 Subsection 17C-2-303(1).  
71 (9) "Blight hearing" means a public hearing under Subsection 17C-2-102(1)(a)(i)(C)  
72 and Section 17C-2-302 regarding the existence or nonexistence of blight within the proposed  
73 urban renewal project area.  
74 (10) "Blight study" means a study to determine the existence or nonexistence of blight  
75 within a survey area as provided in Section 17C-2-301.  
76 (11) "Board" means the governing body of an agency, as provided in Section  
77 17C-1-203.  
78 (12) "Budget hearing" means the public hearing on a draft project area budget required  
79 under Subsection 17C-2-201(2)(d) for an urban renewal project area budget or Subsection  
80 17C-3-201(2)(d) for an economic development project area budget.  
81 (13) "Closed military base" means land within a former military base that the Defense  
82 Base Closure and Realignment Commission has voted to close or realign when that action has  
83 been sustained by the President of the United States and Congress.  
84 (14) "Combined incremental value" means the combined total of all incremental values  
85 from all urban renewal project areas, except project areas that contain some or all of a military  
86 installation or inactive industrial site, within the agency's boundaries under adopted project area  
87 plans and adopted project area budgets at the time that a project area budget for a new urban

renewal project area is being considered.

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

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

(17) "Contest" means to file a written complaint in the district court of the county in which the person filing the complaint resides.

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

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

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

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

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

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

(20) "Family" has the meaning as defined under regulations of the United States Department of Housing and Urban Development, 24 C.F.R. Section 5.403, as amended or as superseded by replacement regulations.

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

(22) "Hazardous waste" means any substance defined, regulated, or listed as a hazardous substance, hazardous material, hazardous waste, toxic waste, pollutant, contaminant, or toxic substance, or identified as hazardous to human health or the environment, under state or federal law or regulation.

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

(24) (a) "Inactive airport site" means land that:

(i) consists of at least 100 acres;

(ii) is occupied by an airport:

(A) (I) that is no longer in operation as an airport; or

(II) (Aa) that is scheduled to be decommissioned; and

(Bb) for which a replacement commercial service airport is under construction; and

(B) that is owned or was formerly owned and operated by a public entity; and

(iii) requires remediation because:

(A) of the presence of hazardous waste or solid waste; or

(B) the site lacks sufficient public infrastructure and facilities, including public roads, electric service, water system, and sewer system, needed to support development of the site.

(b) "Inactive airport site" includes a perimeter of up to 2,500 feet around the land described in Subsection (24)(a).

(25) (a) "Inactive industrial site" means land that:

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

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

(iii) requires remediation because of the presence of hazardous waste or solid waste.

(b) "Inactive industrial site" includes a perimeter of up to 1,500 feet around the land described in Subsection (25)(a).

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

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

(28) "Loan fund board" means the Olene Walker Housing Loan Fund Board, established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.

(29) "Marginal value" means the difference between actual taxable value and base taxable value.

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

(31) (a) "Municipal building" means a building owned and operated by a municipality for the purpose of providing one or more primary municipal functions, including:

- (i) a fire station;
- (ii) a police station;
- (iii) a city hall; or
- (iv) a court or other judicial building.

(b) "Municipal building" does not include a building the primary purpose of which is cultural or recreational in nature.

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

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

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

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

- (a) not owned by the United States or any agency of the federal government, a public entity, or any other governmental entity; and
- (b) not dedicated to public use.

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

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

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

- 181 (b) the projected tax increment expected to be generated within the project area;
- 182 (c) the amount of tax increment expected to be shared with other taxing entities;
- 183 (d) the amount of tax increment expected to be used to implement the project area plan,
- 184 including the estimated amount of tax increment to be used for land acquisition, public
- 185 improvements, infrastructure improvements, and loans, grants, or other incentives to private
- 186 and public entities;
- 187 (e) the tax increment expected to be used to cover the cost of administering the project
- 188 area plan;
- 189 (f) if the area from which tax increment is to be collected is less than the entire project
- 190 area:
- 191 (i) the tax identification numbers of the parcels from which tax increment will be
- 192 collected; or
- 193 (ii) a legal description of the portion of the project area from which tax increment will
- 194 be collected;
- 195 (g) for property that the agency owns and expects to sell, the expected total cost of the
- 196 property to the agency and the expected selling price; and
- 197 (h) (i) for an urban renewal project area, the information required under Subsection
- 198 17C-2-201(1)(b); and
- 199 (ii) for an economic development project area, the information required under
- 200 Subsection 17C-3-201(1)(b).
- 201 (38) "Project area plan" means a written plan under Chapter 2, Part 1, Urban Renewal
- 202 Project Area Plan, Chapter 3, Part 1, Economic Development Project Area Plan, or Chapter 4,
- 203 Part 1, Community Development Project Area Plan, as the case may be, that, after its effective
- 204 date, guides and controls the urban renewal, economic development, or community
- 205 development activities within a project area.
- 206 (39) "Property tax" includes privilege tax and each levy on an ad valorem basis on
- 207 tangible or intangible personal or real property.
- 208 (40) "Public entity" means:
- 209 (a) the state, including any of its departments or agencies; or
- 210 (b) a political subdivision of the state, including a county, city, town, school district,
- 211 local district, special service district, or interlocal cooperation entity.

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

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

(43) "Superfund site":

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

(b) includes an area formerly included in the National Priorities List, as described in Subsection (43)(a), but removed from the list following remediation that leaves on site the waste that caused the area to be included in the National Priorities List.

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

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

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

(47) (a) [~~"Tax]~~ Except as provided in Subsection (47)(b), tax increment" means[~~;~~  
~~except as provided in Subsection (47)(b),]~~ the difference between:

(i) the amount of property tax revenues generated each tax year by all taxing entities from the area within a project area designated in the project area plan as the area from which tax increment is to be collected[~~;~~];

(A) using the current assessed value of the property; and

(B) that are paid to the agency from funds from all of the tax levies used in establishing the certified tax rate in accordance with Section 59-2-924 of the taxing entity within which the agency is located, including funds that are restricted for a particular use by statute or funds that

are obligated for the repayment of bonded indebtedness; and

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

(b) "Tax increment" does not include taxes levied and collected under Section 59-2-1602 on or after January 1, 1994, upon the taxable property in the project area unless:

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

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

(48) "Taxing entity" means a public entity that levies a tax on a parcel or parcels of property located within a community.

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

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

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

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

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

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

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

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

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

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