

1 **UTAH HOUSING CORPORATION ACT AMENDMENTS**

2 2015 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Todd Weiler**

5 House Sponsor: Mike K. McKell

6

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Utah Housing Corporation Act and moves the act to Title 63H,
10 Independent State Entities.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ renumbers and amends the Utah Housing Corporation Act from the Workforce
14 Services Code to the Independent State Entities title;
- 15 ▶ repeals surety bond requirements for a trustee and the president of the Utah Housing
16 Corporation;
- 17 ▶ repeals provisions requiring that each trustee of the corporation maintain a surety
18 bond;
- 19 ▶ amends certain corporation powers and duties;
- 20 ▶ allows the corporation to delegate by resolution certain approval to its officers
21 regarding notes or bonds;
- 22 ▶ amends security interest provisions;
- 23 ▶ allows the corporation to sell mortgage loans;
- 24 ▶ repeals provisions allowing the corporation to create capital reserve funds; and
- 25 ▶ makes technical changes.

26 **Money Appropriated in this Bill:**

27 None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **61-2c-105**, as last amended by Laws of Utah 2012, Chapter 212

33 **63A-3-402**, as last amended by Laws of Utah 2014, Chapters 64 and 185

34 **63E-1-102**, as last amended by Laws of Utah 2014, Chapters 320, 426, and 426

35 **63E-1-203**, as last amended by Laws of Utah 2012, Chapter 212

36 **63I-1-235**, as last amended by Laws of Utah 2014, Chapter 127

37 **63I-1-263**, as last amended by Laws of Utah 2014, Chapters 113, 189, 195, 211, 419,
38 429, and 435

39 **63I-4a-102**, as last amended by Laws of Utah 2014, Chapter 320

40 **63J-7-102**, as last amended by Laws of Utah 2014, Chapter 320

41 RENUMBERS AND AMENDS:

42 **63H-8-101**, (Renumbered from 35A-8-701, as renumbered and amended by Laws of
43 Utah 2012, Chapter 212)

44 **63H-8-102**, (Renumbered from 35A-8-702, as renumbered and amended by Laws of
45 Utah 2012, Chapter 212)

46 **63H-8-103**, (Renumbered from 35A-8-703, as renumbered and amended by Laws of
47 Utah 2012, Chapter 212)

48 **63H-8-201**, (Renumbered from 35A-8-704, as renumbered and amended by Laws of
49 Utah 2012, Chapter 212)

50 **63H-8-202**, (Renumbered from 35A-8-705, as renumbered and amended by Laws of
51 Utah 2012, Chapter 212)

52 **63H-8-203**, (Renumbered from 35A-8-706, as renumbered and amended by Laws of
53 Utah 2012, Chapter 212)

54 **63H-8-204**, (Renumbered from 35A-8-707, as last amended by Laws of Utah 2012,
55 Chapter 347 and renumbered and amended by Laws of Utah 2012, Chapter 212)

56 **63H-8-205**, (Renumbered from 35A-8-708, as renumbered and amended by Laws of
57 Utah 2012, Chapter 212)

58 **63H-8-206**, (Renumbered from 35A-8-709, as renumbered and amended by Laws of

- 59 Utah 2012, Chapter 212)
- 60 **63H-8-301**, (Renumbered from 35A-8-711, as renumbered and amended by Laws of
- 61 Utah 2012, Chapter 212)
- 62 **63H-8-302**, (Renumbered from 35A-8-712, as renumbered and amended by Laws of
- 63 Utah 2012, Chapter 212)
- 64 **63H-8-303**, (Renumbered from 35A-8-713, as renumbered and amended by Laws of
- 65 Utah 2012, Chapter 212)
- 66 **63H-8-304**, (Renumbered from 35A-8-714, as renumbered and amended by Laws of
- 67 Utah 2012, Chapter 212)
- 68 **63H-8-401**, (Renumbered from 35A-8-716, as renumbered and amended by Laws of
- 69 Utah 2012, Chapter 212)
- 70 **63H-8-402**, (Renumbered from 35A-8-717, as renumbered and amended by Laws of
- 71 Utah 2012, Chapter 212)
- 72 **63H-8-403**, (Renumbered from 35A-8-718, as renumbered and amended by Laws of
- 73 Utah 2012, Chapter 212)
- 74 **63H-8-404**, (Renumbered from 35A-8-719, as renumbered and amended by Laws of
- 75 Utah 2012, Chapter 212)
- 76 **63H-8-405**, (Renumbered from 35A-8-720, as renumbered and amended by Laws of
- 77 Utah 2012, Chapter 212)
- 78 **63H-8-406**, (Renumbered from 35A-8-721, as last amended by Laws of Utah 2014,
- 79 Chapter 371)
- 80 **63H-8-407**, (Renumbered from 35A-8-722, as renumbered and amended by Laws of
- 81 Utah 2012, Chapter 212)
- 82 **63H-8-408**, (Renumbered from 35A-8-723, as renumbered and amended by Laws of
- 83 Utah 2012, Chapter 212)
- 84 **63H-8-409**, (Renumbered from 35A-8-724, as renumbered and amended by Laws of
- 85 Utah 2012, Chapter 212)
- 86 **63H-8-410**, (Renumbered from 35A-8-725, as renumbered and amended by Laws of
- 87 Utah 2012, Chapter 212)
- 88 **63H-8-411**, (Renumbered from 35A-8-726, as renumbered and amended by Laws of
- 89 Utah 2012, Chapter 212)

90 REPEALS:

91 [35A-8-710](#), as renumbered and amended by Laws of Utah 2012, Chapter 212

92 [35A-8-715](#), as renumbered and amended by Laws of Utah 2012, Chapter 212

93

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

95 Section 1. Section **61-2c-105** is amended to read:

96 **61-2c-105. Scope of chapter -- Exemptions.**

97 (1) (a) Except as to an individual who will engage in an activity as a mortgage loan
98 originator, this chapter applies to a closed-end residential mortgage loan secured by a first lien
99 or equivalent security interest on a dwelling.

100 (b) This chapter does not apply to a transaction covered by Title 70C, Utah Consumer
101 Credit Code.

102 (2) The following are exempt from this chapter:

103 (a) the federal government;

104 (b) a state;

105 (c) a political subdivision of a state;

106 (d) an agency of or entity created by a governmental entity described in Subsections

107 (2)(a) through (c) including:

108 (i) the Utah Housing Corporation created in [~~Title 35A, Chapter 8, Part 7, Utah~~
109 ~~Housing Corporation Act~~] [Section 63H-8-201](#);

110 (ii) the Federal National Mortgage Corporation;

111 (iii) the Federal Home Loan Mortgage Corporation;

112 (iv) the Federal Deposit Insurance Corporation;

113 (v) the Resolution Trust Corporation;

114 (vi) the Government National Mortgage Association;

115 (vii) the Federal Housing Administration;

116 (viii) the National Credit Union Administration;

117 (ix) the Farmers Home Administration; and

118 (x) the United States Department of Veterans Affairs;

119 (e) a depository institution;

120 (f) an entity that controls, is controlled by, or is under common control with a

121 depository institution;

122 (g) an employee or agent of an entity described in Subsections (2)(a) through (f):

123 (i) when that person acts on behalf of the entity described in Subsections (2)(a) through

124 (f); and

125 (ii) including an employee of:

126 (A) a depository institution;

127 (B) a subsidiary of a depository institution that is:

128 (I) owned and controlled by the depository institution; and

129 (II) regulated by a federal banking agency, as defined in 12 U.S.C. Sec. 5102; or

130 (C) an institution regulated by the Farm Credit Administration;

131 (h) except as provided in Subsection (3), a person who:

132 (i) makes a loan:

133 (A) secured by an interest in real property;

134 (B) with the person's own money; and

135 (C) for the person's own investment; and

136 (ii) that does not engage in the business of making loans secured by an interest in real

137 property;

138 (i) except as provided in Subsection (3), a person who receives a mortgage, deed of

139 trust, or consensual security interest on real property if the individual or entity:

140 (i) is the seller of real property; and

141 (ii) receives the mortgage, deed of trust, or consensual security interest on real property

142 as security for a separate money obligation;

143 (j) a person who receives a mortgage, deed of trust, or consensual security interest on

144 real property if:

145 (i) the person receives the mortgage, deed of trust, or consensual security interest as

146 security for an obligation payable on an installment or deferred payment basis;

147 (ii) the obligation described in Subsection (2)(j)(i) arises from a person providing

148 materials or services used in the improvement of the real property that is the subject of the

149 mortgage, deed of trust, or consensual security interest; and

150 (iii) the mortgage, deed of trust, or consensual security interest is created without the

151 consent of the owner of the real property that is the subject of the mortgage, deed of trust, or

152 consensual security interest;

153 (k) a nonprofit corporation that:

154 (i) is exempt from paying federal income taxes;

155 (ii) is certified by the United States Small Business Administration as a small business

156 investment company;

157 (iii) is organized to promote economic development in this state; and

158 (iv) has as its primary activity providing financing for business expansion;

159 (l) except as provided in Subsection (3), a court appointed fiduciary; or

160 (m) an attorney admitted to practice law in this state:

161 (i) if the attorney is not principally engaged in the business of negotiating residential

162 mortgage loans when considering the attorney's ordinary practice as a whole for all the

163 attorney's clients; and

164 (ii) when the attorney engages in loan modification assistance in the course of the

165 attorney's practice as an attorney.

166 (3) An individual who will engage in an activity as a mortgage loan originator is

167 exempt from this chapter only if the individual is an employee or agent exempt under

168 Subsection (2)(g).

169 (4) (a) Notwithstanding Subsection (2)(m), an attorney exempt from this chapter may

170 not engage in conduct described in Section 61-2c-301 when transacting business of residential

171 mortgage loans.

172 (b) If an attorney exempt from this chapter violates Subsection (4)(a), the attorney:

173 (i) is not subject to enforcement by the division under Part 4, Enforcement; and

174 (ii) may be subject to disciplinary action generally applicable to an attorney admitted to

175 practice law in this state.

176 (c) If the division receives a complaint alleging an attorney exempt from this chapter is

177 in violation of Subsection (4)(a) or that an attorney subject to this chapter has violated this

178 chapter, the division shall forward the complaint to the Utah State Bar for disciplinary action.

179 (5) (a) An individual who is exempt under Subsection (2) or (3) may voluntarily obtain

180 a license under this chapter by complying with Part 2, Licensure.

181 (b) An individual who voluntarily obtains a license [~~pursuant to~~] under this Subsection

182 (5) shall comply with all the provisions of this chapter.

183 Section 2. Section **63A-3-402** is amended to read:

184 **63A-3-402. Utah Public Finance Website -- Establishment and administration --**
185 **Records disclosure -- Exceptions.**

186 (1) There is created the Utah Public Finance Website to be administered by the
187 Division of Finance with the technical assistance of the Department of Technology Services.

188 (2) The Utah Public Finance Website shall:

189 (a) permit Utah taxpayers to:

190 (i) view, understand, and track the use of taxpayer dollars by making public financial
191 information available on the Internet for participating state entities, independent entities, and
192 participating local entities, using the Utah Public Finance Website; and

193 (ii) link to websites administered by participating local entities or independent entities
194 that do not use the Utah Public Finance Website for the purpose of providing participating
195 local entities' or independent entities' public financial information as required by this part and
196 by rule under Section [63A-3-404](#);

197 (b) allow a person who has Internet access to use the website without paying a fee;

198 (c) allow the public to search public financial information on the Utah Public Finance
199 Website using criteria established by the board;

200 (d) provide access to financial reports, financial audits, budgets, or other financial
201 documents that are used to allocate, appropriate, spend, and account for government funds, as
202 may be established by rule under Section [63A-3-404](#);

203 (e) have a unique and simplified website address;

204 (f) be directly accessible via a link from the main page of the official state website;

205 (g) include other links, features, or functionality that will assist the public in obtaining
206 and reviewing public financial information, as may be established by rule under Section
207 [63A-3-404](#); and

208 (h) include a link to school report cards published on the State Board of Education's
209 website [~~pursuant to~~] under Section [53A-1-1112](#).

210 (3) The division shall:

211 (a) establish and maintain the website, including the provision of equipment, resources,
212 and personnel as necessary;

213 (b) maintain an archive of all information posted to the website;

214 (c) coordinate and process the receipt and posting of public financial information from
215 participating state entities;

216 (d) coordinate and regulate the posting of public financial information by participating
217 local entities and independent entities; and

218 (e) provide staff support for the advisory committee.

219 (4) (a) A participating state entity and each independent entity shall permit the public
220 to view the entity's public financial information via the website, beginning with information
221 that is generated not later than the fiscal year that begins July 1, 2008, except that public
222 financial information for an:

223 (i) institution of higher education shall be provided beginning with information
224 generated for the fiscal year beginning July 1, 2009; and

225 (ii) independent entity shall be provided beginning with information generated for the
226 entity's fiscal year beginning in 2014.

227 (b) No later than May 15, 2009, the website shall:

228 (i) be operational; and

229 (ii) permit public access to participating state entities' public financial information,
230 except as provided in Subsections (4)(c) and (d).

231 (c) An institution of higher education that is a participating state entity shall submit the
232 entity's public financial information at a time allowing for inclusion on the website no later
233 than May 15, 2010.

234 (d) No later than the first full quarter after July 1, 2014, an independent entity shall
235 submit the entity's public financial information for inclusion on the Utah Public Finance
236 Website or via a link to its own website on the Utah Public Finance Website.

237 (5) (a) The Utah Educational Savings Plan, created in Section [53B-8a-103](#), shall
238 provide the following financial information to the division for posting on the Utah Public
239 Finance Website:

240 (i) administrative fund expense transactions from its general ledger accounting system;
241 and

242 (ii) employee compensation information.

243 (b) The plan is not required to submit other financial information to the division,
244 including:

- 245 (i) revenue transactions;
- 246 (ii) account owner transactions; and
- 247 (iii) fiduciary or commercial information, as defined in Section [53B-12-102](#).

248 (6) (a) The following independent entities shall each provide administrative expense
249 transactions from its general ledger accounting system and employee compensation
250 information to the division for posting on the Utah Public Finance Website or via a link to a
251 website administered by the independent entity:

- 252 (i) the Utah Capital Investment Corporation, created in Section [63M-1-1207](#);
- 253 (ii) the Utah Housing Corporation, created in Section [~~35A-8-704~~] [63H-8-201](#); and
- 254 (iii) the School and Institutional Trust Lands Administration, created in Section
255 [53C-1-201](#).

256 (b) For purposes of this part, an independent entity described in Subsection (6)(a) is not
257 required to submit to the division, or provide a link to, other financial information, including:

- 258 (i) revenue transactions of a fund or account created in its enabling statute;
- 259 (ii) fiduciary or commercial information related to any subject if the disclosure of the
260 information:

- 261 (A) would conflict with fiduciary obligations; or
- 262 (B) is prohibited by insider trading provisions;
- 263 (iii) information of a commercial nature, including information related to:
 - 264 (A) account owners, borrowers, and dependents;
 - 265 (B) demographic data;
 - 266 (C) contracts and related payments;
 - 267 (D) negotiations;
 - 268 (E) proposals or bids;
 - 269 (F) investments;
 - 270 (G) the investment and management of funds;
 - 271 (H) fees and charges;
 - 272 (I) plan and program design;
 - 273 (J) investment options and underlying investments offered to account owners;
 - 274 (K) marketing and outreach efforts;
 - 275 (L) lending criteria;

276 (M) the structure and terms of bonding; and
277 (N) financial plans or strategies; and
278 (iv) information protected from public disclosure by federal law.
279 (7) (a) As used in this Subsection (7):
280 (i) "Local education agency" means a school district or a charter school.
281 (ii) "New school building project" means the construction of a school that did not
282 previously exist in a local education agency.
283 (iii) "Significant school remodel" means the upgrading, changing, alteration,
284 refurbishment, modification, or complete substitution of an existing school in a local education
285 agency with a project cost equal to or in excess of \$2,000,000.
286 (b) For each new school building project or significant school remodel, the local
287 education agency shall:
288 (i) prepare an annual school plant capital outlay report; and
289 (ii) submit the report:
290 (A) to the division for publication on the Utah Public Finance Website; and
291 (B) in a format, including any raw data or electronic formatting, prescribed by
292 applicable division policy.
293 (c) The local education agency shall include in the capital outlay report described in
294 Subsection (7)(b)(i) the following information as applicable to each new school building
295 project or significant school remodel:
296 (i) the name and location of the project or remodel;
297 (ii) construction and design costs, including:
298 (A) the purchase price or lease terms of any real property acquired or leased for the
299 project or remodel;
300 (B) facility construction;
301 (C) facility and landscape design;
302 (D) applicable impact fees; and
303 (E) furnishings and equipment;
304 (iii) the gross square footage of the project or remodel;
305 (iv) the year construction was completed; and
306 (v) the final student capacity of the new school building project or, for a significant

307 school remodel, the increase or decrease in student capacity created by the remodel.

308 (d) (i) For a cost, fee, or other expense required to be reported under Subsection (7)(c),
309 the local education agency shall report the actual cost, fee, or other expense.

310 (ii) The division may require that a local education agency provide further itemized
311 data on information listed in Subsection (7)(c).

312 (e) (i) No later than May 15, 2015, a local education agency shall provide the division a
313 school plant capital outlay report for each new school building project and significant school
314 remodel completed on or after July 1, 2004, and before May 13, 2014.

315 (ii) For a new school building project or significant school remodel completed after
316 May 13, 2014, the local education agency shall provide the school plant capital outlay report
317 described in this Subsection (7) to the division annually by a date designated by the division.

318 (8) A person who negligently discloses a record that is classified as private, protected,
319 or controlled by Title 63G, Chapter 2, Government Records Access and Management Act, is
320 not criminally or civilly liable for an improper disclosure of the record if the record is disclosed
321 solely as a result of the preparation or publication of the Utah Public Finance Website.

322 Section 3. Section **63E-1-102** is amended to read:

323 **63E-1-102. Definitions -- List of independent entities.**

324 As used in this title:

325 (1) "Authorizing statute" means the statute creating an entity as an independent entity.

326 (2) "Committee" means the Retirement and Independent Entities Committee created by
327 Section [63E-1-201](#).

328 (3) "Independent corporation" means a corporation incorporated in accordance with
329 Chapter 2, Independent Corporations Act.

330 (4) (a) "Independent entity" means an entity having a public purpose relating to the
331 state or its citizens that is individually created by the state or is given by the state the right to
332 exist and conduct its affairs as an:

333 (i) independent state agency; or

334 (ii) independent corporation.

335 (b) "Independent entity" includes the:

336 (i) Utah Dairy Commission created by Section [4-22-2](#);

337 (ii) Heber Valley Historic Railroad Authority created by Section [63H-4-102](#);

- 338 (iii) Utah State Railroad Museum Authority created by Section [63H-5-102](#);
- 339 (iv) Utah Science Center Authority created by Section [63H-3-103](#);
- 340 (v) Utah Housing Corporation created by Section [~~35A-8-704~~] [63H-8-201](#);
- 341 (vi) Utah State Fair Corporation created by Section [63H-6-103](#);
- 342 (vii) Workers' Compensation Fund created by Section [31A-33-102](#);
- 343 (viii) Utah State Retirement Office created by Section [49-11-201](#);
- 344 (ix) School and Institutional Trust Lands Administration created by Section
- 345 [53C-1-201](#);
- 346 (x) School and Institutional Trust Fund Office created by Section [53D-1-201](#);
- 347 (xi) Utah Communications Authority created in Section [63H-7-201](#);
- 348 (xii) Utah Energy Infrastructure Authority created by Section [63H-2-201](#);
- 349 (xiii) Utah Capital Investment Corporation created by Section [63M-1-1207](#); and
- 350 (xiv) Military Installation Development Authority created by Section [63H-1-201](#).
- 351 (c) Notwithstanding this Subsection (4), "independent entity" does not include:
- 352 (i) the Public Service Commission of Utah created by Section [54-1-1](#);
- 353 (ii) an institution within the state system of higher education;
- 354 (iii) a city, county, or town;
- 355 (iv) a local school district;
- 356 (v) a local district under Title 17B, Limited Purpose Local Government Entities - Local
- 357 Districts; or
- 358 (vi) a special service district under Title 17D, Chapter 1, Special Service District Act.
- 359 (5) "Independent state agency" means an entity that is created by the state, but is
- 360 independent of the governor's direct supervisory control.
- 361 (6) "Money held in trust" means money maintained for the benefit of:
- 362 (a) one or more private individuals, including public employees;
- 363 (b) one or more public or private entities; or
- 364 (c) the owners of a quasi-public corporation.
- 365 (7) "Public corporation" means an artificial person, public in ownership, individually
- 366 created by the state as a body politic and corporate for the administration of a public purpose
- 367 relating to the state or its citizens.
- 368 (8) "Quasi-public corporation" means an artificial person, private in ownership,

369 individually created as a corporation by the state which has accepted from the state the grant of
370 a franchise or contract involving the performance of a public purpose relating to the state or its
371 citizens.

372 Section 4. Section **63E-1-203** is amended to read:

373 **63E-1-203. Exemptions from committee activities.**

374 Notwithstanding the other provisions of this Part 2 and Subsection **63E-1-102(4)**, the
375 following independent entities are exempt from the study by the committee under Section
376 **63E-1-202**:

377 (1) the Workers' Compensation Fund created in Title 31A, Chapter 33, Workers'
378 Compensation Fund; and

379 (2) the Utah Housing Corporation created in [~~Title 35A, Chapter 8, Part 7, Utah~~
380 ~~Housing Corporation Act~~] Section **63H-8-201**.

381 Section 5. Section **63H-8-101**, which is renumbered from Section 35A-8-701 is
382 renumbered and amended to read:

383 **CHAPTER 8. UTAH HOUSING CORPORATION ACT**

384 **Part 1. General Provisions**

385 [~~35A-8-701~~]. **63H-8-101. Title.**

386 This [~~part~~] chapter is known as the "Utah Housing Corporation Act."

387 Section 6. Section **63H-8-102**, which is renumbered from Section 35A-8-702 is
388 renumbered and amended to read:

389 [~~35A-8-702~~]. **63H-8-102. Policy -- Finding and declaration.**

390 (1) The Legislature declares that the policy of the state is to assure the health, safety,
391 and welfare of its citizens, that an adequate supply of decent, safe, and sanitary housing is
392 essential to the well-being of the citizens of the state, and that an adequate supply of mortgage
393 funds for housing at reasonable interest rates is in the public interest.

394 (2) The Legislature finds and declares that:

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

398 (b) from time to time the high rates of interest charged by mortgage lenders seriously
399 restrict the transfer of existing housing and new housing starts;

400 (c) the reduction in residential construction starts associated with the high rates causes
401 a condition of substantial unemployment and underemployment in the construction industry
402 which impedes the economy of the state and affects the welfare and prosperity of all the people
403 of the state;

404 (d) these conditions associated with the recurrent shortages of residential mortgage
405 funds contribute to slums and blight in the cities and rural areas of the state and ultimately to
406 the deterioration of the quality of living conditions within the state;

407 (e) in accordance with the purpose of this ~~[part]~~ chapter to assist in providing housing
408 for low and moderate income persons who otherwise could not achieve decent, safe, and
409 sanitary housing, the ~~[agency]~~ corporation shall make every effort to make housing available in
410 rural, inner city, and other areas experiencing difficulty in securing construction and mortgage
411 loans, and to make decent, safe, and sanitary housing available to low income persons and
412 families;

413 (f) in order to assure an adequate ~~[fund]~~ supply of private capital ~~[into]~~ for this
414 housing, the cooperation between private enterprise and state government is essential and is in
415 the public interest;

416 (g) low and moderate income persons in Utah have a wide range of housing needs,
417 which necessitates the development of many different kinds of programs to address those
418 needs, including programs providing mortgage loans, nontraditional loans, grants, and other
419 forms of financial assistance, and combinations of these forms;

420 (h) there are private organizations and governmental entities throughout Utah that are
421 endeavoring to improve the availability of housing for low and moderate income persons and
422 families, but many of these organizations and entities lack expertise and financial resources to
423 act efficiently and expeditiously in these efforts;

424 (i) innovative programs that bring together resources from the public, nonprofit, and
425 private sector are necessary in order to increase the supply of housing for low and moderate
426 ~~[individuals]~~ income persons and families, but these programs usually need advice and
427 financial assistance to become established;

428 (j) all of the foregoing are public purposes and uses for which money may be
429 borrowed, expended, advanced, loaned, or granted, and that these activities serve a public
430 purpose in improving or otherwise benefiting the people of this state, and that the necessity of

431 enacting the provisions in this ~~[part]~~ chapter is in the public interest and is so declared as a
432 matter of express legislative determination; and

433 (k) the compelling need within the state for the creation of an adequate supply of
434 mortgage funds at reasonable interest rates and for other kinds of financial assistance to help
435 provide affordable housing for low and moderate income individuals can be best met by the
436 establishment of an independent body corporate and politic, constituting a public corporation,
437 vested with the powers and duties specified in this ~~[part]~~ chapter.

438 (3) The Legislature declares that the corporation is intended to operate:

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

441 (b) as a financially independent body; and

442 (c) so that its debts shall be payable solely from payments received by the corporation
443 from mortgage borrowers and other revenues generated internally by the corporation.

444 Section 7. Section **63H-8-103**, which is renumbered from Section 35A-8-703 is
445 renumbered and amended to read:

446 ~~[35A-8-703]~~. **63H-8-103. Definitions.**

447 As used in this ~~[part the following words and terms have the following meanings,~~
448 ~~unless a different meaning clearly appears from the context]~~ chapter:

449 (1) "Bonds," "notes," and "other obligations" mean ~~[any]~~ bonds, notes, debentures,
450 interim certificates, or other evidences of financial indebtedness of the corporation authorized
451 to be issued under the provisions of this ~~[part]~~ chapter.

452 (2) "Construction loan" means a short-term advance of money for the purpose of
453 constructing residential housing for low and moderate income persons.

454 (3) "Corporation" means the Utah Housing Corporation created by Section
455 ~~[35A-8-704]~~ 63H-8-201, which, prior to July 1, 2001, was named the Utah Housing Finance
456 Agency.

457 (4) "Employee of the corporation" means an individual who is employed by the
458 corporation but who is not a trustee of the corporation.

459 (5) "Financial assistance" includes:

460 (a) a loan, whether interest or noninterest bearing, secured or unsecured;

461 (b) a loan that converts to a grant upon the occurrence of specified conditions;

- 462 (c) a development loan;
- 463 (d) a grant;
- 464 (e) an award;
- 465 (f) a subsidy;
- 466 (g) a guarantee;
- 467 (h) a warranty;
- 468 (i) a lease;
- 469 (j) a payment on behalf of a borrower of an amount usually paid by a borrower,
470 including a down payment;
- 471 (k) any other form of financial assistance that helps provide affordable housing for low
472 and moderate income persons; or
- 473 (l) any combination of Subsections (5)(a) through (k).
- 474 (6) "Housing development" means a residential housing project, which includes
475 residential housing for low and moderate income persons.
- 476 (7) "Housing sponsor" includes a person who constructs, develops, rehabilitates,
477 purchases, or owns a housing development that is or will be subject to legally enforceable
478 restrictive covenants that require the housing development to provide, at least in part,
479 residential housing to low and moderate income persons, including a local public body, a
480 nonprofit, limited profit, or for profit corporation, a limited partnership, a limited liability
481 company, a joint venture, a subsidiary of the corporation, or any subsidiary of the subsidiary, a
482 cooperative, a mutual housing organization, or ~~[any]~~ other type of entity or arrangement that
483 helps provide affordable housing for low and moderate income persons.
- 484 (8) "Interest rate contract" means an interest rate exchange ~~[contracts]~~ contract, an
485 interest rate floor ~~[contracts]~~ contract, an interest rate ceiling ~~[contracts]~~ contract, ~~[and other]~~ or
486 another similar ~~[contracts]~~ contract authorized in a resolution or policy adopted or approved by
487 the trustees.
- 488 (9) "Local public body" means the state, a municipality, county, district, or other
489 subdivision or instrumentality of the state, including a redevelopment agency and a housing
490 authority created under Title 35A, Chapter 8, Part 4, Housing Authorities.
- 491 (10) "Low and moderate income persons" means ~~[persons]~~ individuals, irrespective of
492 race, religion, creed, national origin, or sex, as determined by the corporation to require such

493 assistance as is made available by this ~~[part]~~ chapter on account of insufficient personal or
 494 family income taking into consideration factors, including:

- 495 (a) the amount of income that persons and families have available for housing needs;
- 496 (b) the size of family;
- 497 (c) whether a person is a single head of household;
- 498 (d) the cost and condition of available residential housing; and
- 499 (e) the ability of persons and families to compete successfully in the normal private
 500 housing market and to pay the amounts at which private enterprise is providing decent, safe,
 501 and sanitary housing.

502 (11) "Mortgage" means a mortgage, deed of trust, or other instrument securing a
 503 mortgage loan and constituting a lien on real property (the property being held in fee simple or
 504 on a leasehold under a lease having a remaining term, at the time the mortgage is acquired, of
 505 not less than the term for repayment of the mortgage loan secured by the mortgage) improved
 506 or to be improved by residential housing, creating a lien ~~[which]~~ that may be first priority or
 507 subordinate.

508 (12) "Mortgage lender" means a bank, trust company, savings and loan association,
 509 credit union, mortgage banker, or other financial institution authorized to transact business in
 510 the state, a local public body, or ~~[any]~~ other entity, profit or nonprofit, that makes mortgage
 511 loans.

512 (13) "Mortgage loan" means a loan secured by a mortgage, which loan may bear
 513 interest at either a fixed or variable rate or which may be noninterest bearing, the proceeds of
 514 which are used for the purpose of financing the construction, development, rehabilitation, ~~[or]~~
 515 purchase, or refinancing of residential housing for low and moderate income persons~~;~~
 516 ~~including low and moderate income persons who:~~

- 517 ~~[(a) are first-time homebuyers;]~~
- 518 ~~[(b) are single heads of household;]~~
- 519 ~~[(c) are elderly;]~~
- 520 ~~[(d) are homeless; or]~~
- 521 ~~[(e) have a disability;]~~

522 (14) "Rehabilitation" includes the reconstruction, rehabilitation, improvement, and
 523 repair of residential housing.

524 (15) "Residential housing" means a specific work or improvement within the state
 525 undertaken primarily to provide dwelling accommodations, including land, buildings, and
 526 improvements to land and buildings, whether in one to four family units or multifamily units,
 527 and other incidental or appurtenant nonhousing facilities, or as otherwise specified by the
 528 [~~agency~~] corporation.

529 (16) "State" means the state of Utah.

530 (17) "State housing credit ceiling" means the amount specified in Subsection
 531 42(h)(3)(C) of the Internal Revenue Code for each calendar year.

532 Section 8. Section **63H-8-201**, which is renumbered from Section 35A-8-704 is
 533 renumbered and amended to read:

534 **Part 2. Organization**

535 [~~35A-8-704~~]. **63H-8-201. Creation -- Trustees -- Terms -- Vacancies --**
 536 **Chair -- Powers -- Quorum -- Per diem and expenses.**

537 (1) (a) There is created an independent body politic and corporate, constituting a public
 538 corporation, known as the "Utah Housing Corporation."

539 (b) The corporation may also be known and do business as the:

540 (i) Utah Housing Finance Association; and

541 (ii) Utah Housing Finance Agency in connection with [~~any~~] a contract entered into
 542 when that was the corporation's legal name.

543 (c) [~~Any~~] No other entity may [~~not~~] use the names described in Subsections (1)(a) and
 544 (b) without the express approval of the corporation.

545 (2) The corporation is governed by a board of trustees composed of the following nine
 546 trustees:

547 [~~(a) three ex officio trustees who are:~~]

548 [(i)] (a) the executive director of the Department of Workforce Services or the
 549 executive director's designee;

550 [(ii)] (b) the commissioner of the Department of Financial Institutions or the
 551 commissioner's designee; [~~and~~]

552 [(iii)] (c) the state treasurer or the treasurer's designee; and

553 [(b)] (d) six public trustees, who are private citizens of the state, as follows:

554 (i) two people who represent the mortgage lending industry;

- 555 (ii) two people who represent the home building and real estate industry; and
556 (iii) two people who represent the public at large.
- 557 (3) The governor shall:
- 558 (a) appoint the six public trustees of the corporation with the consent of the Senate; and
559 (b) ensure that:
- 560 (i) the six public trustees are from different counties and are residents of [~~Utah~~] the
561 state; and
- 562 (ii) not more than three of the public trustees [~~belong to~~] are members of the same
563 political party.
- 564 (4) (a) Except as required by Subsection (4)(b), the governor shall appoint the six
565 public trustees to terms of office of four years each.
- 566 (b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the
567 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
568 corporation trustees are staggered so that approximately half of the board is appointed every
569 two years.
- 570 (5) (a) [~~Any of the six~~] A public [~~trustees~~] trustee of the corporation may be removed
571 from office for cause either by the governor or by an affirmative vote of six trustees of the
572 corporation.
- 573 (b) When a vacancy occurs in the board of trustees for any reason, the replacement
574 shall be appointed for the unexpired term.
- 575 (c) A public trustee shall hold office for the term of appointment and until the trustee's
576 successor has been appointed and qualified.
- 577 (d) A public trustee is eligible for reappointment but may not serve more than two full
578 consecutive terms.
- 579 (6) (a) The governor shall select the chair of the corporation.
- 580 (b) The trustees shall elect from among their number a vice chair and other officers
581 they may determine.
- 582 (7) (a) Five trustees of the corporation constitute a quorum for transaction of business.
583 (b) An affirmative vote of at least five trustees is necessary for any action to be taken
584 by the corporation.
- 585 (c) A vacancy in the board of trustees [~~may~~] does not impair the right of a quorum to

586 exercise all rights and perform all duties of the corporation.

587 (8) A trustee may not receive compensation or benefits for the trustee's service, but
588 may receive per diem and travel expenses in accordance with:

589 (a) Section 63A-3-106;

590 (b) Section 63A-3-107; and

591 (c) rules made by the Division of Finance [~~pursuant~~] according to Sections 63A-3-106
592 and 63A-3-107.

593 Section 9. Section **63H-8-202**, which is renumbered from Section 35A-8-705 is
594 renumbered and amended to read:

595 ~~[35A-8-705]~~. **63H-8-202**. **Corporation as continuation of agency.**

596 The corporation is a continuation of the Utah Housing Finance Agency and shall:

597 (1) possess all rights, title, privileges, powers, immunities, property, and claims of the
598 [~~agency~~] former Utah Housing Finance Agency; and

599 (2) fulfill and perform all obligations of the [~~agency~~] former Utah Housing Finance
600 Agency, including [~~all-agency~~] obligations relating to outstanding bonds and notes.

601 Section 10. Section **63H-8-203**, which is renumbered from Section 35A-8-706 is
602 renumbered and amended to read:

603 ~~[35A-8-706]~~. **63H-8-203**. **President and chief executive officer --**

604 **Secretary-treasurer -- Powers and duties -- Power to employ experts -- Power to employ**
605 **independent legal counsel.**

606 (1) (a) (i) The trustees shall appoint a president who is the chief executive officer of the
607 corporation[~~; but who~~].

608 (ii) The president:

609 (A) may not be a trustee of the corporation[~~; and who~~];

610 (B) serves at the pleasure of the trustees; and

611 (C) shall receive compensation as set by the trustees.

612 (b) The president, who shall also be the secretary-treasurer, shall:

613 (i) establish bank accounts and other monetary investments in the name of the
614 corporation; and

615 (ii) administer, manage, and direct the affairs and activities of the corporation in
616 accordance with the policies, control, and direction of the trustees.

617 (c) The president shall approve all accounts for salaries, allowable expenses of the
 618 corporation, or of any corporation employee or consultant, and expenses incidental to the
 619 operation of the corporation.

620 (d) The president shall perform any other duties as may be directed by the trustees in
 621 carrying out [~~the purposes of this part~~] this chapter.

622 (2) (a) The president shall:

623 (i) attend the meetings of the corporation;

624 (ii) keep a record of the proceedings of the corporation; and

625 (iii) maintain and be custodian of:

626 (A) books, documents, and papers filed with the corporation;

627 (B) the minute book or journal of the corporation; and

628 (C) the corporation's official seal.

629 (b) The president may cause copies to be made of minutes and other records and
 630 documents of the corporation and may give certificates under seal of the corporation to the
 631 effect that those copies are true copies, and a person dealing with the corporation may rely
 632 upon those certificates.

633 (3) (a) The corporation may employ or engage technical experts, independent
 634 professionals and consultants, and [~~any~~] other officers, agents, or employees, permanent or
 635 temporary, as it considers necessary to carry out the efficient operation of the corporation, and
 636 shall determine their qualifications, duties, and compensation.

637 (b) The trustees may delegate to one or more of the corporation's agents,
 638 representatives, or employees [~~any~~] administrative duties [~~as they~~] that the trustees consider
 639 proper.

640 (4) The corporation may employ and retain independent legal counsel.

641 Section 11. Section **63H-8-204**, which is renumbered from Section 35A-8-707 is
 642 renumbered and amended to read:

643 [~~35A-8-707~~]. **63H-8-204. Relation to certain acts.**

644 (1) The corporation is exempt from:

645 (a) Title 51, Chapter 5, Funds Consolidation Act;

646 (b) Title 51, Chapter 7, State Money Management Act;

647 (c) Title 63A, Utah Administrative Services Code;

- 648 (d) Title 63G, Chapter 6a, Utah Procurement Code;
- 649 (e) Title 63J, Chapter 1, Budgetary Procedures Act;
- 650 (f) Title 63J, Chapter 2, Revenue Procedures and Control Act; and
- 651 (g) Title 67, Chapter 19, Utah State Personnel Management Act.

652 (2) The corporation shall comply with:

- 653 (a) Title 52, Chapter 4, Open and Public Meetings Act; and
- 654 (b) Title 63G, Chapter 2, Government Records Access and Management Act.

655 Section 12. Section **63H-8-205**, which is renumbered from Section 35A-8-708 is
656 renumbered and amended to read:

657 ~~[35A-8-708]~~. **63H-8-205. Disclosure of interest.**

658 (1) A trustee, officer, or employee of the corporation who has, will have, or later
659 acquires an interest, direct or indirect, in a transaction with the corporation shall immediately
660 disclose the nature and extent of that interest in writing to the corporation as soon as the
661 trustee, officer, or employee has knowledge of the actual or prospective interest.

662 (2) (a) This disclosure shall be entered upon the minutes of the corporation.

663 (b) Upon the disclosure, that trustee, officer, or employee may participate in any action
664 by the corporation authorizing the transaction.

665 Section 13. Section **63H-8-206**, which is renumbered from Section 35A-8-709 is
666 renumbered and amended to read:

667 ~~[35A-8-709]~~. **63H-8-206. Officer or employee -- No forfeiture of office or**
668 **employment.**

669 Notwithstanding the provisions of any other law, no officer or employee of this state
670 forfeits a state office or state employment by accepting an appointment or by serving as a
671 trustee of the corporation.

672 Section 14. Section **63H-8-301**, which is renumbered from Section 35A-8-711 is
673 renumbered and amended to read:

674 **Part 3. Corporation Duties and Powers**

675 ~~[35A-8-711]~~. **63H-8-301. Corporation -- Powers.**

676 The corporation has and may exercise all powers necessary or appropriate to carry out
677 the purposes of this [part] chapter, including:

- 678 (1) to have perpetual succession as a body politic and corporate, constituting a public

679 corporation, and to adopt, amend, and repeal rules, policies, and procedures for the regulation
680 of its affairs and the conduct of its business;

681 (2) to sue and be sued in its own name;

682 (3) to have an official seal and power to alter that seal at will;

683 (4) to maintain an office [~~at a place~~] within [~~this~~] the state at a place the corporation
684 designates;

685 (5) to adopt, amend, and repeal bylaws and rules that are consistent with this [~~part~~]
686 chapter to carry into effect the powers and purposes of the corporation and the conduct of its
687 business;

688 (6) to make and execute contracts and other instruments necessary or convenient for
689 the performance of its duties and the exercise of its powers and functions under this [~~part~~]
690 chapter, including contracts or agreements for the servicing and originating of mortgage loans;

691 (7) to employ advisers, consultants, and agents, including financial experts,
692 independent legal counsel, and other advisers, consultants, and agents as necessary in the
693 corporation's judgment and to fix their compensation;

694 (8) to procure insurance in amounts and from insurers as determined by the corporation
695 against any loss;

696 (a) in connection with its property and other assets, including mortgage loans~~[in~~
697 ~~amounts and from insurers it considers desirable]; and~~

698 (b) resulting from the failure of an officer, employee, or agent of the corporation in a
699 position of public or private trust;

700 (9) to borrow money and to issue bonds and notes or other evidences of indebtedness
701 as provided in this [~~part~~] chapter;

702 (10) to receive and accept aid or contributions from any source of money, property,
703 labor, or other things of value to be held, used, loaned, granted, and applied to carry out the
704 purposes of this [~~part~~] chapter subject to the conditions, if any, upon which the grants and
705 contributions are made, including gifts or grants from a department, agency, or instrumentality
706 of the United States or of this state for any purpose consistent with this [~~part~~] chapter;

707 (11) to enter into agreements with a local public body, a housing sponsor, a
708 department, agency, or instrumentality of the United States, another state, or this state, or with
709 mortgagors and mortgage lenders for the purpose of administering contracts that provide

710 housing assistance payments, servicing mortgage loans, or planning and regulating and
711 providing for the financing and refinancing, construction, rehabilitation, leasing, management,
712 maintenance, operation, sale, or other disposition of [any] residential housing undertaken with
713 the assistance of the corporation under this [part] chapter;

714 (12) to exercise all of its remedies following the default under a mortgage loan,
715 including:

716 (a) proceeding with a foreclosure action or private sale to obtain title to the real and
717 personal property held as collateral and taking assignments of leases and rentals;

718 (b) to own, lease, clear, reconstruct, rehabilitate, repair, maintain, manage, and operate
719 this property in preparation for its disposition; and

720 (c) to assign, encumber, sell, or otherwise dispose of this property;

721 (13) to invest money not required for immediate disbursement, including money held
722 in reserve, in a manner consistent with applicable provisions of Title 51, Chapter 7, State
723 Money Management Act;

724 (14) to provide technical and financial assistance to housing sponsors and advisory
725 committees in the development or operation of housing for low and moderate income persons;

726 (15) to gather and distribute data and information concerning the housing needs of low
727 and moderate income families within the various communities of this state;

728 (16) to the extent permitted under a contract with the holders of bonds, notes, and other
729 obligations of the corporation, to consent to a modification with respect to rate of interest, time
730 and payment of an installment of principal or interest security, or other term of [any] a contract,
731 mortgage, mortgage loan, mortgage loan commitment, contract, or agreement of any kind to
732 which the corporation is a party;

733 (17) to the extent permitted under a contract with the holders of bonds, notes, and other
734 obligations of the corporation, to enter into contracts with a mortgagor or housing sponsor
735 containing provisions enabling the mortgagor to reduce the rental or carrying charges to
736 persons unable to pay the regular schedule of charges where, by reason of other income or
737 payment by a department, agency, or instrumentality of the United States or of [this] the state,
738 the reduction can be made without jeopardizing the economic stability of residential housing
739 being financed;

740 (18) to acquire property within [this] the state for the purpose of holding it for

741 subsequent disposition to a housing sponsor or other entity that can use it for residential
742 housing for low and moderate income persons, except that if no person can be found to use it in
743 this manner, the corporation may dispose of the property to any person;

744 (19) to purchase, own and operate residential housing for the benefit, in whole or in
745 part, of low and moderate income persons, [~~so long as~~] if the corporation makes reasonable
746 efforts to sell that residential housing to a housing sponsor;

747 (20) to incorporate or form one or more subsidiaries of the corporation for the purpose
748 of carrying out any of the powers of the corporation and accomplishing any of the purposes of
749 the corporation, to invest in and provide financial assistance to these subsidiaries, to borrow
750 from these subsidiaries, to guarantee the obligations of these subsidiaries, and to enter into
751 agreements with these subsidiaries to carry out any of the corporation's powers under this [~~part~~]
752 chapter;

753 (21) to enter into partnership and limited liability company agreements, to purchase
754 and sell interests in housing sponsors, to serve as general partner of a partnership, and to serve
755 as a manager of a limited liability company to carry out any of the corporation's powers under
756 this [~~part~~] chapter;

757 (22) to require that persons receiving a mortgage loan or financial assistance from the
758 corporation subject the property involved to restrictive covenants that shall be considered to be
759 running with the land, regardless of whether or not the corporation enjoys privity of estate or
760 whether or not the covenant touches and concerns the burdened property;

761 (23) to enter into management agreements with a person or entity for the performance
762 by the person or entity for the corporation of any of its functions or powers, with terms and
763 conditions as may be mutually agreeable;

764 (24) to sell, at public or private sale, with or without public bidding, a mortgage loan or
765 other obligation held by the corporation;

766 (25) to sell or convey real property owned by the corporation to low or moderate
767 income persons and housing sponsors, without consideration if the sale or conveyance will
768 inure primarily to the benefit of low or moderate income persons living in a housing
769 development;

770 (26) upon making a determination that the financial status of a housing development
771 will jeopardize an economic interest of the corporation in the housing development, to assume

772 managerial and financial control of the property or the owner and to supervise and prescribe the
773 activities of the property or the owner in a manner and under terms and conditions as the
774 corporation may stipulate in a contract;

775 (27) to supervise housing sponsors of housing developments;

776 (28) to service mortgage loans secured by property in Utah or another state;

777 (29) to give consideration to [~~those~~] activities [~~which~~] that promote the availability of
778 accessible housing; and

779 (30) to do an act necessary or convenient to the exercise of the corporation's powers
780 [~~granted in or reasonably implied from this part~~] under this chapter.

781 Section 15. Section **63H-8-302**, which is renumbered from Section 35A-8-712 is
782 renumbered and amended to read:

783 [~~35A-8-712~~]. **63H-8-302. Corporation -- Additional powers.**

784 (1) To accomplish the declared purposes of this [~~part~~] chapter, the corporation has the
785 following powers:

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

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

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

797 (d) to provide financial assistance to any housing authority created under Title 35A,
798 Chapter 8, Part 4, Housing Authorities, which housing authorities may enter into commitments
799 for and accept loans for a housing project as defined in Section 35A-8-401; and

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

803 (2) The corporation may issue bonds to purchase loans under Subsection (1)(a) only
804 after a determination by the corporation that the loans are not otherwise available upon
805 reasonably equivalent terms and conditions from private lenders.

806 (3) Loans for owner-occupied housing made under Subsection (1)(a) may not include a
807 penalty for prepayment.

808 (4) The corporation shall make rules or adopt policies and procedures to govern the
809 activities authorized under this section, including:

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

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

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

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

819 (e) procedures allowing the corporation to prohibit persons who fail to comply with the
820 rules of the corporation with respect to the operations of a program of the corporation from
821 participating, either directly or indirectly, in the programs of the corporation;

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

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

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

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

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

831 (ii) Service by a trustee of the corporation in any of these capacities does not constitute
832 a conflict of interest for any purpose.

833 (iii) The corporation may delegate any of its powers and duties under this [part] chapter

834 to any subsidiary.

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

837 (b) A note, bond, and other obligation of a subsidiary shall contain on its face a
838 statement to the effect that:

839 (i) the subsidiary is obligated to pay the note, bond, or other obligation solely from the
840 revenues or other funds of the subsidiary;

841 (ii) neither the corporation, nor the state, nor any of its political subdivisions is
842 obligated to pay the note, bond, or other obligation; and

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

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

848 (6) (a) The corporation may:

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

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

852 (b) An interest rate contract may contain payment, security, default, termination,
853 remedy, and other terms and conditions that the trustees consider appropriate.

854 (c) An interest rate contract and funds used in connection with an interest rate contract
855 may not be considered a deposit or investment.

856 Section 16. Section **63H-8-303**, which is renumbered from Section 35A-8-713 is
857 renumbered and amended to read:

858 ~~[35A-8-713]~~. **63H-8-303. Power to issue mortgage credit certificates --**
859 **Impact of federal legislation on tax exempt status of corporation bond.**

860 (1) In order to accomplish the purposes of this ~~[part]~~ chapter the corporation may issue
861 mortgage credit certificates under 26 U.S.C. Sec. ~~[143]~~ 25, as amended, ~~[and the regulations~~
862 ~~issued under the code]~~ and has the sole responsibility for issuing or approving the issuance of
863 mortgage credit certificates allowable to the state.

864 (2) A power granted to the corporation by this ~~[part]~~ chapter may not be diminished by

865 the enactment of federal legislation that would cause the interest on bonds, notes, or other
866 obligations of the corporation to be subject to taxation under federal law.

867 (3) An exemption from state taxation granted in this ~~[part]~~ chapter is not affected by
868 federal legislation described under Subsection (2).

869 Section 17. Section **63H-8-304**, which is renumbered from Section 35A-8-714 is
870 renumbered and amended to read:

871 ~~[35A-8-714]~~. **63H-8-304. Power to borrow money and make loans --**
872 **Issuance of notes and bonds -- Mortgage backed securities.**

873 (1) The corporation has the power to borrow money and to issue its notes, bonds, and
874 other obligations in ~~[such]~~ principal amounts as the corporation determines is necessary to
875 provide sufficient money for:

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

877 (b) the making of construction loans;

878 (c) the making of loans to housing authorities;

879 (d) the payment of interest on bonds, notes, and other obligations of the corporation;

880 (e) the establishment of reserves to secure the bonds, notes, and other obligations;

881 (f) the making of mortgage loans;

882 (g) the making of loans to mortgage lenders or other lending institutions with respect to
883 multifamily residential rental housing under terms and conditions requiring the proceeds of
884 these loans to be used by these mortgage lenders or other lending institutions for the making of
885 loans for new multifamily residential rental housing or the acquisition or rehabilitation of
886 existing multifamily residential rental housing;

887 (h) the making of loans for the rehabilitation of residential housing; and

888 (i) all other expenditures of the corporation ~~[incident to and]~~ necessary or convenient to
889 carry out its purposes and powers.

890 (2) (a) The corporation may issue notes to renew notes and bonds to pay notes,
891 including interest, and whenever it considers refunding expedient, to refund any bonds by the
892 issuance of new bonds, whether the bonds to be refunded have or have not matured, and to
893 issue bonds partly to refund bonds then outstanding and partly for any of its corporate
894 purposes.

895 (b) The refunding bonds may be:

896 (i) sold and the proceeds applied to the purchase, redemption, or payment of the bonds
897 to be refunded; or

898 (ii) exchanged for the bonds to be refunded.

899 (3) (a) Except as otherwise expressly provided by the corporation, every issue of the
900 corporation's notes or bonds are general obligations of the corporation payable solely by money
901 of the corporation, subject only to any agreements with the holders of particular notes or bonds
902 pledging any particular money.

903 (b) These bonds or notes may be additionally secured by a pledge of:

904 (i) a grant or contribution from the federal government or a corporation, association,
905 institution, or person; or

906 (ii) money, income, or revenues of the corporation from any source.

907 (4) (a) The notes and bonds shall be authorized by resolution or resolutions of the
908 corporation, shall bear the date or dates, and shall mature at the time or times as the resolution
909 or resolutions may provide, except that no note, including any renewals thereof, shall mature
910 more than five years from the date of its original issue, and no bond shall mature more than 50
911 years from the date of its issue, as provided by the resolution.

912 (b) The notes and bonds shall bear interest at the rate or rates, including variations in
913 the rates, be in denominations, be in a form, either coupon or registered, carry the registration
914 privileges, be executed in the manner, be payable in a medium of payment, at the place or
915 places, and be subject to the terms of redemption, including redemption prior to maturity, as
916 provided by the resolution.

917 (c) The notes and bonds of the corporation may be sold by the corporation at public or
918 private sale, and at the price or prices determined by the corporation.

919 (d) (i) The notes and bonds may bear interest at a variable interest rate as provided by
920 the resolution.

921 (ii) The resolution may establish a method, formula, or index by which the interest rate
922 on the notes and bonds is determined.

923 (iii) The resolution may delegate to one or more officers of the corporation the
924 authority to:

925 (A) approve the final interest rates or prices, principal amount, maturities, redemption
926 features, or other terms of the notes or bonds; and

927 (B) approve and execute all documents relating to the issuance of the notes or bonds.

928 (e) In connection with the notes and bonds, the corporation may authorize and enter
929 into agreements or other arrangements with financial, banking, and other institutions for letters
930 of credit, standby letters of credit, surety bonds, reimbursement agreements, remarketing
931 agreements, indexing agreements, tender agent agreements, and other agreements with respect
932 to:

933 (i) securing the notes and bonds;

934 (ii) enhancing the marketability and credit worthiness of the notes and bonds;

935 (iii) determining a variable interest rate on the notes and bonds; and

936 (iv) paying from any legally available source, which may include the proceeds of the
937 notes and bonds, fees, charges, and other amounts coming due with respect to these
938 agreements.

939 (5) A resolution authorizing [~~any~~] notes or bonds or their issue may contain provisions,
940 which are a part of the contract or contracts with their holders, as to:

941 (a) pledging all or [~~any~~] part of the revenues to secure the payment of the notes or
942 bonds or of any issue of the notes or bonds, subject to the agreements with noteholders or
943 bondholders as may then exist;

944 (b) pledging all or [~~any~~] part of the assets of the corporation, including mortgages and
945 obligations securing the assets, to secure the payment of the notes or bonds or of any issue of
946 notes or bonds, subject to the agreements with noteholders or bondholders as may then exist;

947 (c) the use and disposition of the gross income from mortgages owned by the
948 corporation and payment of principal of mortgages owned by the corporation;

949 (d) the setting aside of reserves or sinking funds and their regulation and disposition;

950 (e) limitations on the purpose to which the proceeds of sale of notes or bonds may be
951 applied and pledging the proceeds to secure the payment of the notes or bonds or of their issue;

952 (f) limitations on the issuance of additional notes or bonds, including:

953 (i) the terms upon which additional notes or bonds may be issued and secured; and

954 (ii) the refunding of outstanding or other notes or bonds;

955 (g) the procedure, if any, by which the terms of a contract with noteholders or
956 bondholders may be amended or abrogated, the amount of notes or bonds to which the holders
957 must consent, and the manner in which the consent may be given;

958 (h) limitations on the amount of money to be expended by the corporation for operating
959 expenses of the corporation;

960 (i) vesting in a trustee or trustees the property, rights, powers, and duties in trust as
961 determined by the corporation, which may include any or all of the rights, powers, and duties of
962 the trustee appointed by the noteholders or bondholders under this ~~[act]~~ chapter and limiting or
963 abrogating the right of noteholders or bondholders to appoint a trustee under this ~~[act]~~ chapter
964 or limiting the rights, powers, and duties of the trustee;

965 (j) (i) defining the acts or omissions to act that constitute a default in the obligations
966 and duties of the corporation to the holders of the notes or bonds and providing for the rights
967 and remedies of the holders of the notes or bonds in the event of default, including as a matter
968 of right the appointment of a receiver;

969 (ii) but the rights and remedies may not be inconsistent with the general laws of the
970 state and other provisions of this ~~[part]~~ chapter; or

971 (k) any other matters, of like or different character, which in any way affect the security
972 or protection of the holders of the notes or bonds.

973 (6) (a) A pledge made by the corporation is valid, enforceable, and binding from the
974 time when the pledge is made and has a lien priority based on the time of grant or, if more than
975 one lien is granted at a given time, as set forth in the resolution or instrument under which the
976 pledge is made.

977 (b) (i) The revenues, money, or property pledged and then received by the corporation
978 are immediately subject to the lien of the pledge and constitute a perfected lien without any
979 physical delivery or further act.

980 (ii) The lien of the pledge is valid and binding against all parties having claims of any
981 kind in tort, contract, or otherwise against the corporation, irrespective of whether the parties
982 have notice of the lien.

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

985 (d) Notwithstanding the provisions of Title 70A, Chapter 9a, Uniform Commercial
986 Code - Secured Transactions, the corporation shall comply with the provisions of Title 11,
987 Chapter 14, Part 5, Governmental Security Interests for the creation, perfection, priority, and
988 enforcement of a security interest created by the corporation.

989 (7) The corporation, subject to the agreements with noteholders or bondholders as may
990 then exist, has power to use available money to purchase notes or bonds of the corporation,
991 which shall immediately be cancelled unless held for resale, at a price not exceeding:

992 (a) if the notes or bonds are redeemable at the time of the purchase, the applicable
993 redemption price plus accrued interest to the next interest payment on the notes or bonds; or

994 (b) if the notes or bonds are not redeemable at the time of the purchase, the redemption
995 price applicable on the first date after the purchase that the notes or bonds are subject to
996 redemption plus accrued interest to that date.

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

1000 (b) The trust indenture may contain provisions for protecting and enforcing the rights
1001 and remedies of the noteholders or bondholders as may be reasonable and proper and not in
1002 violation of law, including covenants setting forth the duties of the corporation in relation to
1003 the exercise of its corporate powers and the custody, safeguarding, and application of all
1004 money.

1005 (c) The corporation may provide by the trust indenture for the payment of the proceeds
1006 of the notes or bonds and the revenues to the trustee under the trust indenture or other
1007 depository, and for the method of their disbursement, with any safeguards and restrictions as it
1008 may determine.

1009 (d) All expenses incurred in carrying out the trust indenture may be treated as a part of
1010 the operating expenses of the corporation.

1011 (e) If the notes or bonds are secured by a trust indenture, the noteholders or
1012 bondholders may not have authority to appoint a separate trustee to represent them.

1013 (9) Whether or not the notes and bonds are of the form and character as to be
1014 negotiable instruments under the terms of the Uniform Commercial Code, the notes and bonds
1015 are negotiable instruments within the meaning of and for all the purposes of the Uniform
1016 Commercial Code, subject only to the provisions of the notes and bonds relating to registration.

1017 (10) In the event that any of the trustees or officers of the corporation cease to be
1018 trustees or officers of the corporation prior to the delivery of any notes or bonds or coupons
1019 signed by [~~them, their~~] the trustees or officers signatures or facsimiles of [~~their~~] trustees or

1020 officers signatures are valid and sufficient for all purposes, the same as if the trustees or
1021 officers had remained in office until the delivery.

1022 (11) A trustee or officer of the corporation [~~or a person~~] executing the notes or bonds
1023 issued under this chapter is not subject to personal liability or accountability by reason of the
1024 issuance of the notes or bonds.

1025 (12) The corporation may provide for the replacement of lost, destroyed, or mutilated
1026 bonds or notes.

1027 (13) The corporation may sell mortgage loans it has purchased or made for cash or it
1028 may exchange mortgage loans for mortgage-backed securities and sell the mortgage-backed
1029 securities for cash.

1030 Section 18. Section **63H-8-401**, which is renumbered from Section 35A-8-716 is
1031 renumbered and amended to read:

1032 **Part 4. Corporation Assets and Obligations**

1033 [~~35A-8-716~~]. **63H-8-401. Corporation money -- Depositing and paying out**
1034 **-- Power to contract with holders of notes and bonds -- Money held in trust.**

1035 (1) (a) All money of the corporation, except as otherwise authorized or provided in this
1036 [~~part~~] chapter, shall be deposited as soon as practicable in a separate account or accounts in
1037 banks or trust companies organized under [~~the laws of the state or national banking association~~]
1038 state or federal laws.

1039 (b) The money in these accounts shall be paid out on checks or drafts signed by the
1040 president or other officers or employees of the corporation or transferred electronically as
1041 authorized by the corporation.

1042 (c) All deposits of money shall, if required by the corporation, be secured in a manner
1043 as the corporation determines to be prudent, and banks and trust companies are authorized to
1044 give security for the deposits.

1045 (2) (a) Notwithstanding the provisions of this section, the corporation may contract
1046 with the holders of [~~any of~~] its notes or bonds as to the custody, collection, securing,
1047 investment, and payment of any money of the corporation and of any money held in trust or
1048 otherwise for the payment of notes or bonds, and to carry out that contract.

1049 (b) Money held in trust or otherwise for the payment of notes or bonds or in any way to
1050 secure notes or bonds and deposits of money may be secured in the same manner as money of

1051 the corporation, and banks and trust companies may give security for the deposits.

1052 Section 19. Section **63H-8-402**, which is renumbered from Section 35A-8-717 is
1053 renumbered and amended to read:

1054 ~~[35A-8-717]~~. **63H-8-402. State pledge to holders of notes or bonds.**

1055 (1) The state pledges and agrees with the holders of [any] notes or bonds issued under
1056 this [act] chapter that the state will not limit or alter the rights hereby vested in the corporation
1057 to fulfill the terms of [any] agreements made with the holders of the notes or bonds or in any
1058 way impair the rights and remedies of the holders until the notes and bonds, together with their
1059 interest, with interest on any unpaid installments of interest, and all costs and expenses in
1060 connection with any action or proceeding by or on behalf of the holders, are fully met and
1061 discharged.

1062 (2) The corporation may include this pledge and agreement of the state in any
1063 agreement with the holders of the notes or bonds.

1064 Section 20. Section **63H-8-403**, which is renumbered from Section 35A-8-718 is
1065 renumbered and amended to read:

1066 ~~[35A-8-718]~~. **63H-8-403. Notes, bonds, other obligations -- Not a debt
1067 liability -- Expenses payable from funds provided -- Corporation without authority to
1068 incur liability on behalf of state -- Relationship to Governmental Immunity Act of Utah.**

1069 (1) (a) (i) Notes, bonds, and other obligations issued under this [part] chapter are not a
1070 debt or liability of [this] the state or of a county, city, town, school district, or other political
1071 subdivision of the state.

1072 (ii) The notes, bonds, or other obligations do not constitute the loaning of credit of the
1073 state or of a county, city, town, school district, or other political subdivision of the state.

1074 (iii) The notes, bonds, or other obligations are not payable from money other than that
1075 of the corporation.

1076 (b) All notes, bonds, or other obligations shall contain on their face a statement to the
1077 effect that:

1078 (i) the corporation shall pay the note, bond, or obligation solely from the revenues or
1079 other money of the corporation;

1080 (ii) neither [this] the state nor any of its political subdivisions are obligated to pay the
1081 note, bond, or obligation; and

1082 (iii) neither the faith and credit nor the taxing power of ~~[this]~~ the state or any of its
1083 political subdivisions are pledged to the payment of principal, ~~[or]~~ redemption price of, or the
1084 interest on, the notes, bonds, or other obligations.

1085 (2) All expenses incurred in carrying out this ~~[part]~~ chapter are payable solely from
1086 funds provided under this ~~[part]~~ chapter, and nothing in this ~~[part]~~ chapter authorizes the
1087 corporation to incur indebtedness or liability on behalf of or payable by ~~[this]~~ the state or any of
1088 its political subdivisions.

1089 (3) (a) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies to the
1090 corporation.

1091 (b) Notwithstanding Subsection (3)(a), a claim may not be brought against the state,
1092 ~~[any]~~ a public official or employee of the state, another public entity, or ~~[any]~~ a public official
1093 or employee of another public entity, based on or arising from:

1094 (i) a failure to fulfill a contractual obligation of the corporation;

1095 (ii) an act or failure to act by the corporation or its trustees, officers, employees, agents,
1096 or representatives; or

1097 (iii) failure of the corporation to comply with the requirements of any law or
1098 regulation.

1099 (c) The provisions of Subsection (3)(b) do not apply to a claim of a current or former
1100 officer or employee of the corporation for retirement or insurance benefits.

1101 Section 21. Section **63H-8-404**, which is renumbered from Section 35A-8-719 is
1102 renumbered and amended to read:

1103 ~~[35A-8-719]~~. **63H-8-404. Corporation property, notes, and bonds -- Tax**
1104 **exemption except corporate franchise tax.**

1105 (1) Property acquired or held by the corporation under this ~~[part]~~ chapter is declared to
1106 be public property used for essential public and governmental purposes.

1107 (2) The property, its income, and notes and bonds issued under this ~~[part]~~ chapter, the
1108 interest payable on the notes and bonds, and income derived from the notes and bonds are
1109 exempt from taxation of every kind by the state, a county, a municipality, and any other
1110 political subdivision of the state, except for the corporate franchise tax.

1111 Section 22. Section **63H-8-405**, which is renumbered from Section 35A-8-720 is
1112 renumbered and amended to read:

1113 ~~[35A-8-720]~~. 63H-8-405. **Corporation notes, bonds, obligations -- Legal**
 1114 **investments.**

1115 (1) The notes, bonds, and other obligations issued under the authority of this ~~[part]~~
 1116 chapter are securities in which all public officers and public bodies of the state and its political
 1117 subdivisions, all banks, bankers, savings banks, trust companies, credit unions, savings and
 1118 loan associations, building and loan associations, investment companies, and other persons
 1119 carrying on a banking business, all insurance companies and insurance associations, and others
 1120 carrying on an insurance business, and all administrators, executors, guardians, trustees, and
 1121 other fiduciaries, pension, profit-sharing and retirement funds, and all other persons who may
 1122 now or may later be authorized to invest in notes, bonds, or other obligations of the state, may
 1123 properly and legally invest any funds, including capital belonging to them or within their
 1124 control.

1125 (2) These notes, bonds, and other obligations are securities that may properly and
 1126 legally be deposited with and received by any state, county, or municipal officer, or agency of
 1127 the state for any purpose for which the deposit of notes, bonds, or other obligations of the state
 1128 is now or may later be authorized by law.

1129 Section 23. Section 63H-8-406, which is renumbered from Section 35A-8-721 is
 1130 renumbered and amended to read:

1131 ~~[35A-8-721]~~. 63H-8-406. **Annual report to governor and Legislature --**
 1132 **Contents -- Audits.**

1133 (1) (a) The corporation shall, following the close of each fiscal year, submit, by
 1134 October 1, an annual written report of its activities for the preceding year to the governor and
 1135 the Retirement and Independent Entities Interim Committee.

1136 (b) Each report shall set forth a complete operating and financial statement of the
 1137 corporation during the fiscal year it covers.

1138 (c) At least once each year, an independent certified public accountant shall audit the
 1139 books and accounts of the corporation.

1140 (d) A complete copy of each annual audit report shall be:

1141 (i) included in the report to the governor and the Legislature under Subsection (2);

1142 ~~[and]~~

1143 (ii) available for public inspection at the corporation's office~~[-];~~ and

1144 (iii) made available to the public on the corporation's website.

1145 (2) The corporation shall, each fiscal year, submit a budget of its operations to the
1146 Legislature and the governor.

1147 (3) (a) The corporation shall form an audit committee consisting of no less than three
1148 trustees.

1149 (b) The audit committee has exclusive authority to:

1150 (i) select and engage the independent certified public accountant to audit the
1151 corporation; and

1152 (ii) supervise the audit.

1153 (4) The corporation shall provide additional information upon request by the governor,
1154 the Legislature, a legislative committee, the legislative auditor general, or the state auditor.

1155 Section 24. Section **63H-8-407**, which is renumbered from Section 35A-8-722 is
1156 renumbered and amended to read:

1157 ~~[35A-8-722]~~. **63H-8-407. Act not restriction on powers of corporation --**
1158 **Construed as alternative -- Bonds, notes, obligations issued need not comply with other**
1159 **laws.**

1160 (1) (a) This ~~[part]~~ chapter and its contents are not a restriction or limitation upon other
1161 powers that the corporation has under other laws of ~~[this]~~ the state.

1162 (b) This ~~[part]~~ chapter is cumulative to the powers referenced in Subsection (1)(a).

1163 (2) This ~~[part]~~ chapter provides a complete, additional, and alternative method for
1164 doing the things authorized in this ~~[part]~~ chapter and is supplemental and additional to powers
1165 conferred by other laws.

1166 (3) The issuance of bonds, notes, and other obligations under this ~~[part]~~ chapter need
1167 not comply with the requirements of any other state law applicable to the issuance of bonds,
1168 notes, and other obligations.

1169 (4) Proceedings, notice, or approval are not required for the issuance of ~~[any]~~ bonds,
1170 notes, and other obligations or ~~[any]~~ an instrument as security for them, except as provided in
1171 this ~~[part]~~ chapter.

1172 Section 25. Section **63H-8-408**, which is renumbered from Section 35A-8-723 is
1173 renumbered and amended to read:

1174 ~~[35A-8-723]~~. **63H-8-408. Allocation to corporation of mortgage bonds**

1175 **qualified under Internal Revenue Code.**

1176 (1) The entire amount of qualified mortgage bonds allowable to Utah under 26 U.S.C.
1177 Sec. 143, and the regulations issued under the code, is allocated to the Utah Housing
1178 Corporation which, for purposes of 26 U.S.C. Sec. 143 and the regulations under that section,
1179 has sole responsibility for issuing or approving the issuance of qualified mortgage bonds
1180 allowable to Utah.

1181 (2) The corporation is not required to issue or approve the issuance of qualified
1182 mortgage bonds equal in amount to the amount allowed Utah.

1183 (3) Housing authorities in counties, cities, and towns in Utah may apply under 26
1184 U.S.C. Sec. 143 to the corporation for funding of housing programs within their respective
1185 jurisdictions.

1186 Section 26. Section **63H-8-409**, which is renumbered from Section 35A-8-724 is
1187 renumbered and amended to read:

1188 ~~[35A-8-724]~~. **63H-8-409. Allocation of qualified mortgage bonds to**
1189 **counties, cities, and towns.**

1190 (1) (a) The corporation may allocate all or part of the amount to one or more counties,
1191 cities, and towns within the state or to any authority or agency of any entity that is authorized to
1192 issue qualified mortgage bonds.

1193 (b) An allocation may not be made under this section unless:

1194 (i) the entity applies to the corporation for an allocation; and

1195 (ii) the corporation finds that the proposed allocation would be in the best interest of
1196 the state.

1197 (c) The corporation shall take the following factors into consideration before making
1198 its finding:

1199 (i) the number of "low and moderate income persons," within the meaning of the Utah
1200 Housing Corporation Act, within a given area;

1201 (ii) the likelihood that the proposed issuing entity would use the allocation to issue
1202 qualified mortgage bonds in a timely manner;

1203 (iii) the cost to the proposed issuing entity to issue the bonds relative to the cost to the
1204 corporation to issue the bonds;

1205 (iv) any special costs or benefits which would result from the issuance of the bonds by

1206 the proposed issuing entity;

1207 (v) the capability of the proposed issuing entity to administer an issuance of qualified
1208 mortgage bonds;

1209 (vi) the needs of the proposed issuing entity relative to the needs of other counties,
1210 cities, and towns;

1211 (vii) the effects of the proposed allocation on counties, cities, and towns which are not
1212 served by the proposed issuing entity; and

1213 (viii) any other factors the corporation considers relevant to a determination of what is
1214 in the best interest of [~~Utah~~] the state with regard to single family housing.

1215 (2) (a) The corporation shall specify the time within which an issuing entity shall use
1216 the allocation.

1217 (b) Any part of the allocation which is not used within the time prescribed
1218 automatically terminates.

1219 (c) The corporation may extend the time initially prescribed for use of the allocation.

1220 Section 27. Section **63H-8-410**, which is renumbered from Section 35A-8-725 is
1221 renumbered and amended to read:

1222 ~~[35A-8-725]~~. **63H-8-410. Low-income housing tax credits.**

1223 (1) The corporation is designated the "Housing Credit Agency" for the state within the
1224 meaning of 26 U.S.C. Sec. 42(h) and for the purposes of carrying out 26 U.S.C. Sec. 42 and
1225 [~~any~~] regulations promulgated under that section.

1226 (2) The entire state housing credit ceiling for each calendar year is allocated to the
1227 corporation.

1228 (3) The allocation of the state housing credit ceiling shall be made under the state's
1229 qualified allocation plan within the meaning of 26 U.S.C. Sec. 42(m), as amended, and as
1230 provided in Subsection (4).

1231 (4) The corporation may amend the state's qualified allocation plan as necessary to
1232 comply with revisions to the low-income housing tax credit program under 26 U.S.C. Sec. 42,
1233 or as may be necessary to further the goals and purposes of the low-income housing tax credit
1234 program for the state.

1235 (5) The corporation, or a subsidiary of the corporation, may have a direct or indirect
1236 ownership interest in, and may materially participate in the operation and management of, a

1237 housing development or program that has received an allocation of the state housing credit
1238 ceiling.

1239 Section 28. Section **63H-8-411**, which is renumbered from Section 35A-8-726 is
1240 renumbered and amended to read:

1241 ~~[35A-8-726].~~ **63H-8-411. Asset disposition upon dissolution of**
1242 **corporation.**

1243 Upon dissolution of the corporation:

1244 (1) all liabilities and obligations of the corporation, including obligations to
1245 bondholders, shall be paid, satisfied, discharged, or adequately provided for; and

1246 (2) all remaining money, property, rights, claims, and interests of the corporation shall
1247 revert or be conveyed to the state.

1248 Section 29. Section **63I-1-235** is amended to read:

1249 **63I-1-235. Repeal dates, Title 35A.**

1250 (1) Title 35A, Utah Workforce Services Code, is repealed July 1, 2015.

1251 ~~[(2) Title 35A, Chapter 8, Part 7, Utah Housing Corporation Act, is repealed July 1,~~
1252 ~~2016.]~~

1253 ~~[(3)]~~ (2) Title 35A, Chapter 8, Part 18, Transitional Housing and Community
1254 Development Advisory Council, is repealed July 1, 2014.

1255 ~~[(4)]~~ (3) Title 35A, Chapter 11, Women in the Economy Commission Act, is repealed
1256 July 1, 2016.

1257 Section 30. Section **63I-1-263** is amended to read:

1258 **63I-1-263. Repeal dates, Titles 63A to 63M.**

1259 (1) Section **63A-4-204**, authorizing the Risk Management Fund to provide coverage to
1260 any public school district which chooses to participate, is repealed July 1, 2016.

1261 (2) Subsection **63A-5-104(4)(h)** is repealed on July 1, 2024.

1262 (3) Section **63A-5-603**, State Facility Energy Efficiency Fund, is repealed July 1, 2016.

1263 (4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July
1264 1, 2018.

1265 (5) Title 63C, Chapter 14, Federal Funds Commission, is repealed July 1, 2018.

1266 (6) Title 63C, Chapter 15, Prison Relocation Commission, is repealed July 1, 2017.

1267 (7) Subsection **63G-6a-1402(7)** authorizing certain transportation agencies to award a

1268 contract for a design-build transportation project in certain circumstances, is repealed July 1,
1269 2015.

1270 (8) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1,
1271 2020.

1272 (9) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2016.

1273 ~~[(9)]~~ (10) The Resource Development Coordinating Committee, created in Section
1274 [63J-4-501](#), is repealed July 1, 2015.

1275 ~~[(10)]~~ (11) Title 63M, Chapter 1, Part 4, Enterprise Zone Act, is repealed July 1, 2018.

1276 ~~[(11)]~~ (12) (a) Title 63M, Chapter 1, Part 11, Recycling Market Development Zone
1277 Act, is repealed January 1, 2021.

1278 (b) Subject to Subsection ~~[(12)]~~ (12)(c), Sections [59-7-610](#) and [59-10-1007](#) regarding
1279 tax credits for certain persons in recycling market development zones, are repealed for taxable
1280 years beginning on or after January 1, 2021.

1281 (c) A person may not claim a tax credit under Section [59-7-610](#) or [59-10-1007](#):

1282 (i) for the purchase price of machinery or equipment described in Section [59-7-610](#) or
1283 [59-10-1007](#), if the machinery or equipment is purchased on or after January 1, 2021; or
1284 (ii) for an expenditure described in Subsection [59-7-610\(1\)\(b\)](#) or [59-10-1007\(1\)\(b\)](#), if
1285 the expenditure is made on or after January 1, 2021.

1286 (d) Notwithstanding Subsections ~~[(12)]~~ (12)(b) and (c), a person may carry forward a
1287 tax credit in accordance with Section [59-7-610](#) or [59-10-1007](#) if:

1288 (i) the person is entitled to a tax credit under Section [59-7-610](#) or [59-10-1007](#); and
1289 (ii) (A) for the purchase price of machinery or equipment described in Section
1290 [59-7-610](#) or [59-10-1007](#), the machinery or equipment is purchased on or before December 31,
1291 2020; or
1292 (B) for an expenditure described in Subsection [59-7-610\(1\)\(b\)](#) or [59-10-1007\(1\)\(b\)](#), the
1293 expenditure is made on or before December 31, 2020.

1294 ~~[(12)]~~ (13) Section [63M-1-3412](#) is repealed on July 1, 2021.

1295 ~~[(13)]~~ (14) (a) Section [63M-1-2507](#), Health Care Compact is repealed on July 1, 2014.

1296 (b) (i) The Legislature shall, before reauthorizing the Health Care Compact:
1297 (A) direct the Health System Reform Task Force to evaluate the issues listed in
1298 Subsection ~~[(14)]~~ (14)(b)(ii), and by January 1, 2013, develop and recommend criteria for the

1299 Legislature to use to negotiate the terms of the Health Care Compact; and

1300 (B) prior to July 1, 2014, seek amendments to the Health Care Compact among the
1301 member states that the Legislature determines are appropriate after considering the
1302 recommendations of the Health System Reform Task Force.

1303 (ii) The Health System Reform Task Force shall evaluate and develop criteria for the
1304 Legislature regarding:

1305 (A) the impact of the Supreme Court ruling on the Affordable Care Act;

1306 (B) whether Utah is likely to be required to implement any part of the Affordable Care
1307 Act prior to negotiating the compact with the federal government, such as Medicaid expansion
1308 in 2014;

1309 (C) whether the compact's current funding formula, based on adjusted 2010 state
1310 expenditures, is the best formula for Utah and other state compact members to use for
1311 establishing the block grants from the federal government;

1312 (D) whether the compact's calculation of current year inflation adjustment factor,
1313 without consideration of the regional medical inflation rate in the current year, is adequate to
1314 protect the state from increased costs associated with administering a state based Medicaid and
1315 a state based Medicare program;

1316 (E) whether the state has the flexibility it needs under the compact to implement and
1317 fund state based initiatives, or whether the compact requires uniformity across member states
1318 that does not benefit Utah;

1319 (F) whether the state has the option under the compact to refuse to take over the federal
1320 Medicare program;

1321 (G) whether a state based Medicare program would provide better benefits to the
1322 elderly and disabled citizens of the state than a federally run Medicare program;

1323 (H) whether the state has the infrastructure necessary to implement and administer a
1324 better state based Medicare program;

1325 (I) whether the compact appropriately delegates policy decisions between the
1326 legislative and executive branches of government regarding the development and
1327 implementation of the compact with other states and the federal government; and

1328 (J) the impact on public health activities, including communicable disease surveillance
1329 and epidemiology.

1330 ~~[(14)]~~ (15) (a) Title 63M, Chapter 1, Part 35, Utah Small Business Jobs Act, is
1331 repealed January 1, 2021.

1332 (b) Section 59-9-107 regarding tax credits against premium taxes is repealed for
1333 calendar years beginning on or after January 1, 2021.

1334 (c) Notwithstanding Subsection ~~[(14)]~~ (15)(b), an entity may carry forward a tax credit
1335 in accordance with Section 59-9-107 if:

1336 (i) the person is entitled to a tax credit under Section 59-9-107 on or before December
1337 31, 2020; and

1338 (ii) the qualified equity investment that is the basis of the tax credit is certified under
1339 Section 63M-1-3503 on or before December 31, 2023.

1340 ~~[(15)]~~ (16) The Crime Victim Reparations and Assistance Board, created in Section
1341 63M-7-504, is repealed July 1, 2017.

1342 ~~[(16)]~~ (17) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1,
1343 2017.

1344 Section 31. Section 63I-4a-102 is amended to read:

1345 **63I-4a-102. Definitions.**

1346 (1) (a) "Activity" means to provide a good or service.

1347 (b) "Activity" includes to:

1348 (i) manufacture a good or service;

1349 (ii) process a good or service;

1350 (iii) sell a good or service;

1351 (iv) offer for sale a good or service;

1352 (v) rent a good or service;

1353 (vi) lease a good or service;

1354 (vii) deliver a good or service;

1355 (viii) distribute a good or service; or

1356 (ix) advertise a good or service.

1357 (2) (a) Except as provided in Subsection (2)(b), "agency" means:

1358 (i) the state; or

1359 (ii) an entity of the state including a department, office, division, authority,
1360 commission, or board.

- 1361 (b) "Agency" does not include:
- 1362 (i) the Legislature;
- 1363 (ii) an entity or agency of the Legislature;
- 1364 (iii) the state auditor;
- 1365 (iv) the state treasurer;
- 1366 (v) the Office of the Attorney General;
- 1367 (vi) the Utah Dairy Commission created in [~~Title 4, Chapter 22, Dairy Promotion Act~~]
- 1368 Section 4-22-2;
- 1369 (vii) the Utah Science Center Authority created in [~~Title 63H, Chapter 3, Utah Science~~
- 1370 ~~Center Authority~~] Section 63H-3-103;
- 1371 (viii) the Heber Valley Railroad Authority created in [~~Title 63H, Chapter 4, Heber~~
- 1372 ~~Valley Historic Railroad Authority~~] Section 63H-4-102;
- 1373 (ix) the Utah State Railroad Museum Authority created in [~~Title 63H, Chapter 5, Utah~~
- 1374 ~~State Railroad Museum Authority~~] Section 63H-5-102;
- 1375 (x) the Utah Housing Corporation created in [~~Title 35A, Chapter 8, Part 7, Utah~~
- 1376 ~~Housing Corporation Act~~] Section 63H-8-201;
- 1377 (xi) the Utah State Fair Corporation created in [~~Title 63H, Chapter 6, Utah State Fair~~
- 1378 ~~Corporation Act~~] Section 63H-6-103;
- 1379 (xii) the Workers' Compensation Fund created in [~~Title 31A, Chapter 33, Workers'~~
- 1380 ~~Compensation Fund~~] Section 31A-33-102;
- 1381 (xiii) the Utah State Retirement Office created in [~~Title 49, Chapter 11, Utah State~~
- 1382 ~~Retirement Systems Administration~~] Section 49-11-201;
- 1383 (xiv) a charter school chartered by the State Charter School Board or a board of
- 1384 trustees of a higher education institution under Title 53A, Chapter 1a, Part 5, The Utah Charter
- 1385 Schools Act;
- 1386 (xv) the Utah Schools for the Deaf and the Blind created in Title 53A, Chapter 25b,
- 1387 Utah Schools for the Deaf and the Blind;
- 1388 (xvi) an institution of higher education as defined in Section 53B-3-102;
- 1389 (xvii) the School and Institutional Trust Lands Administration created in [~~Title 53C,~~
- 1390 ~~Chapter 1, Part 2, School and Institutional Trust Lands Administration~~] Section 53C-1-201;
- 1391 (xviii) the Utah Communications Authority created in [~~Title 63H, Chapter 7, Utah~~

1392 ~~Communications Authority Act]~~ Section 63H-7-201; or

1393 (xix) the Utah Capital Investment Corporation created in [~~Title 63M, Chapter 1, Part~~

1394 ~~12, Utah Venture Capital Enhancement Act]~~ Section 63M-1-1207.

1395 (3) "Agency head" means the chief administrative officer of an agency.

1396 (4) "Board" means the Free Market Protection and Privatization Board created in
1397 Section 63I-4a-202.

1398 (5) "Commercial activity" means to engage in an activity that can be obtained in whole
1399 or in part from a private enterprise.

1400 (6) "Local entity" means:

1401 (a) a political subdivision of the state, including a:

1402 (i) county;

1403 (ii) city;

1404 (iii) town;

1405 (iv) local school district;

1406 (v) local district; or

1407 (vi) special service district;

1408 (b) an agency of an entity described in this Subsection (6), including a department,
1409 office, division, authority, commission, or board; or

1410 (c) an entity created by an interlocal cooperative agreement under Title 11, Chapter 13,
1411 Interlocal Cooperation Act, between two or more entities described in this Subsection (6).

1412 (7) "Private enterprise" means a person that engages in an activity for profit.

1413 (8) "Privatize" means that an activity engaged in by an agency is transferred so that a
1414 private enterprise engages in the activity, including a transfer by:

1415 (a) contract;

1416 (b) transfer of property; or

1417 (c) another arrangement.

1418 (9) "Special district" means:

1419 (a) a local district, as defined in Section 17B-1-102;

1420 (b) a special service district, as defined in Section 17D-1-102; or

1421 (c) a conservation district, as defined in Section 17D-3-102.

1422 Section 32. Section **63J-7-102** is amended to read:

1423 **63J-7-102. Scope and applicability of chapter.**

1424 (1) Except as provided in Subsection (2), and except as otherwise provided by a statute
1425 superseding provisions of this chapter by explicit reference to this chapter, the provisions of
1426 this chapter apply to each agency and govern each grant received on or after May 5, 2008.

1427 (2) This chapter does not govern:

1428 (a) a grant deposited into a General Fund restricted account;

1429 (b) a grant deposited into a Trust and Agency Fund as defined in Section [51-5-4](#);

1430 (c) a grant deposited into an Enterprise Fund as defined in Section [51-5-4](#);

1431 (d) a grant made to the state without a restriction or other designated purpose that is
1432 deposited into the General Fund as free revenue;

1433 (e) a grant made to the state that is restricted only to "education" and that is deposited
1434 into the Education Fund or Uniform School Fund as free revenue;

1435 (f) in-kind donations;

1436 (g) a tax, fees, penalty, fine, surcharge, money judgment, or other money due the state
1437 when required by state law or application of state law;

1438 (h) a contribution made under Title 59, Chapter 10, Part 13, Individual Income Tax
1439 Contribution Act;

1440 (i) a grant received by an agency from another agency or political subdivision;

1441 (j) a grant to the Utah Dairy Commission created in [~~Title 4, Chapter 22, Dairy~~
1442 ~~Promotion Act~~] Section [4-22-2](#);

1443 (k) a grant to the Utah Science Center Authority created in [~~Title 63H, Chapter 3, Utah~~
1444 ~~Science Center Authority~~] Section [63H-3-103](#);

1445 (l) a grant to the Heber Valley Railroad Authority created in [~~Title 63H, Chapter 4,~~
1446 ~~Heber Valley Historic Railroad Authority~~] Section [63H-4-102](#);

1447 (m) a grant to the Utah State Railroad Museum Authority created in [~~Title 63H,~~
1448 ~~Chapter 5, Utah State Railroad Museum Authority~~] Section [63H-5-102](#);

1449 (n) a grant to the Utah Housing Corporation created in [~~Title 35A, Chapter 8, Part 7,~~
1450 ~~Utah Housing Corporation Act~~] Section [63H-8-201](#);

1451 (o) a grant to the Utah State Fair Corporation created in [~~Title 63H, Chapter 6, Utah~~
1452 ~~State Fair Corporation Act~~] Section [63H-6-103](#);

1453 (p) a grant to the Workers' Compensation Fund created in [~~Title 31A, Chapter 33,~~

1454 ~~Workers' Compensation Fund]~~ Section 31A-33-102;

1455 (q) a grant to the Utah State Retirement Office created in [~~Title 49, Chapter 11, Utah~~
1456 ~~State Retirement Systems Administration]~~ Section 49-11-201;

1457 (r) a grant to the School and Institutional Trust Lands Administration created in [~~Title~~
1458 ~~53C, Chapter 1, Part 2, School and Institutional Trust Lands Administration]~~ Section
1459 53C-1-201;

1460 (s) a grant to the Utah Communications Authority created in [~~Title 63H, Chapter 7,~~
1461 ~~Utah Communications Authority Act]~~ Section 63H-7-201;

1462 (t) a grant to the Medical Education Program created in Section 53B-24-202;

1463 (u) a grant to the Utah Capital Investment Corporation created in [~~Title 63M, Chapter~~
1464 ~~1, Part 12, Utah Venture Capital Enhancement Act]~~ Section 63M-1-1207;

1465 (v) a grant to the Utah Charter School Finance Authority created in Section
1466 53A-20b-103;

1467 (w) a grant to the State Building Ownership Authority created in Section 63B-1-304;

1468 (x) a grant to the Utah Comprehensive Health Insurance Pool created in Section
1469 31A-29-104; or

1470 (y) a grant to the Military Installation Development Authority created in Section
1471 63H-1-201.

1472 (3) An agency need not seek legislative review or approval of grants under Part 2,
1473 Grant Approval Requirements, if:

1474 (a) the governor has declared a state of emergency; and

1475 (b) the grant is donated to the agency to assist victims of the state of emergency under
1476 Subsection 53-2a-204(1).

1477 Section 33. **Repealer.**

1478 This bill repeals:

1479 Section 35A-8-710, **Surety bond required.**

1480 Section 35A-8-715, **Capital reserve funds -- Capital reserve fund requirement --**
1481 **Establishment of other funds.**

Legislative Review Note
as of 1-15-15 11:32 AM

Office of Legislative Research and General Counsel