

1                                   **URBAN REDEVELOPMENT TAX CREDIT**

2   2016 GENERAL SESSION

3   STATE OF UTAH

4                                   **Chief Sponsor: Stephen G. Handy**

5                                   Senate Sponsor: \_\_\_\_\_

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7 **LONG TITLE**

8 **General Description:**

9           This bill creates an urban redevelopment tax credit.

10 **Highlighted Provisions:**

11           This bill:

- 12           ▶ creates a nonrefundable urban redevelopment tax credit;
- 13           ▶ provides a process by which a qualified investor may claim an urban redevelopment
- 14 tax credit; and
- 15           ▶ requires the developer to submit an annual report regarding an urban redevelopment
- 16 project.

17 **Money Appropriated in this Bill:**

18           None

19 **Other Special Clauses:**

20           This bill provides a special effective date.

21 **Utah Code Sections Affected:**

22 ENACTS:

23           **35A-8-2101**, Utah Code Annotated 1953

24           **35A-8-2102**, Utah Code Annotated 1953

25           **35A-8-2103**, Utah Code Annotated 1953

26           **35A-8-2104**, Utah Code Annotated 1953

27           **35A-8-2105**, Utah Code Annotated 1953



28 [35A-8-2106](#), Utah Code Annotated 1953  
 29 [59-7-621](#), Utah Code Annotated 1953  
 30 [59-10-1036](#), Utah Code Annotated 1953



31  
 32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section [35A-8-2101](#) is enacted to read:

34 **Part 21. Urban Redevelopment Tax Credit**

35 **[35A-8-2101. Title.](#)**

36 This part is known as "Urban Redevelopment Tax Credit."

37 Section 2. Section [35A-8-2102](#) is enacted to read:

38 **[35A-8-2102. Definitions.](#)**

39 (1) "Agency" means a community development and renewal agency as defined in  
 40 Section [17C-1-102](#).

41 (2) "Community" means a county, city, or town within which an urban redevelopment  
 42 project is located or is proposed to be located.

43 (3) "Credit allowance date" means:

44 (a) the date on which a qualified investor first claims a tax credit; and

45 (b) each of the nine anniversary dates of the date described in Subsection (2)(a).

46 (4) "Developer" means a person that executes a development agreement with an agency  
 47 for the purpose of constructing an urban redevelopment project.

48 (5) (a) "Local contribution" means money, an asset, or other valuable contribution that  
 49 the community or the agency agrees to contribute to an urban redevelopment project, including:

50 (i) simplified procedures for obtaining a permit;

51 (ii) dedication of an available government grant;

52 (iii) infrastructure improvements;

53 (iv) a utility rate concession; or

54 (v) any portion of the agency's housing funds, as defined in Section [17C-1-102](#).

55 (b) Except as provided in Subsection (5)(a)(v), "local contribution" does not include  
 56 tax increment, as defined in Section [17C-1-102](#).

57 (6) "Long-term debt instrument" means a debt instrument issued by an investor:

58 (a) with an original maturity date of at least 10 years after the day on which the debt

59 instrument is issued; and

60 (b) with no repayment, amortization, or prepayment features before the debt  
61 instrument's maturity date.

62 (7) "Project" means a redevelopment project that improves previously developed land,  
63 including:

64 (a) constructing or altering the land; or

65 (b) demolishing, constructing, or reconstructing a building.

66 (8) "Qualified investment" means an investment in an urban redevelopment project

67 that:

68 (a) includes:

69 (i) an equity investment; or

70 (ii) a long-term debt instrument; and

71 (b) is certified by the division in accordance with Section [35A-8-2105](#).

72 (9) "Qualified investor" means a person, including a developer, that makes a qualified  
73 investment and is eligible to claim a tax credit.

74 (10) "Tax credit" means a nonrefundable tax credit for an urban redevelopment project  
75 as described in Section [59-7-621](#) or [59-10-1036](#).

76 (11) "Tax credit allocation" means the amount of a tax credit that a qualified investor is  
77 eligible to claim.

78 (12) "Tax credit certificate" means a certificate issued by the division to a qualified  
79 investor that:

80 (a) states the qualified investor's:

81 (i) name; and

82 (ii) tax identification number;

83 (b) confirms that the division authorizes the qualified investor to receive a tax credit;

84 (c) states the amount of tax credit that the division authorizes the qualified investor to  
85 receive for the calendar year; and

86 (d) includes any other information determined by the division.

87 (13) "Urban redevelopment project" means a project that meets the requirements of  
88 Subsection [35A-8-2103\(5\)](#).

89 Section 3. Section **35A-8-2103** is enacted to read:

90 35A-8-2103. Tax credit -- Eligibility -- Application process.91 (1) An agency shall, in accordance with this section, make a recommendation to the  
92 division regarding:93 (a) whether a project is an urban redevelopment project;94 (b) whether an investment is a qualified investment; and95 (c) the amount of the qualified investor's tax credit allocation.96 (2) A developer seeking a recommendation from an agency shall file an application  
97 with the agency that includes:98 (a) a letter of intent from an investor that states the amount of the investor's investment  
99 in the project;100 (b) a detailed estimation of the project's total costs;101 (c) a statement that includes the amount and source of all money that the developer will  
102 use to pay for the project, including documentation of the developer's own equity; and103 (d) any other documentation the agency requests.104 (3) Upon receipt of a complete application described in Subsection (2), an agency  
105 shall:106 (a) provide notice and hold a public hearing in accordance with Title 17C, Chapter 2,  
107 Part 4, Hearing and Notice Requirements; and108 (b) at the public hearing:109 (i) evaluate the developer's application using the criteria described in Subsections (5)  
110 and (6); and111 (ii) by resolution:112 (A) make a recommendation described in Subsection (1); and113 (B) certify the amount of any local contribution.114 (4) After the agency adopts a resolution described in Subsection (3)(b)(ii), a qualified  
115 investor may apply to the division for a tax credit certificate in accordance with Section  
116 [35A-8-2104](#).117 (5) An agency may recommend that a project is an urban redevelopment project if the  
118 project:119 (a) provides positive direct and indirect benefits to the tax base of the community;120 (b) reduces or eliminates blight;

- 121 (c) is only financially feasible with a tax credit;  
122 (d) costs at least \$3,500,000 to complete;  
123 (e) is located within a project area, as defined in Section 17C-1-102, in which the  
124 agency makes a finding of blight in accordance with Section 17C-2-102;  
125 (f) upon completion, has no more than 20% of the land area dedicated for commercial  
126 use;  
127 (g) is subject to a development agreement between a developer and an agency; and  
128 (h) provides additional benefits that align with the agency's goals.  
129 (6) (a) An agency may recommend that an investment in an urban redevelopment  
130 project is a qualified investment if:  
131 (i) the developer provides the agency with a letter of intent from an investor to invest in  
132 the project; and  
133 (ii) the agency determines that the investor's investment will be used to pay for all or a  
134 portion of the urban redevelopment project.  
135 (b) If the agency recommends that the investment is a qualified investment in  
136 accordance with Subsection (6)(a), subject to Subsection 35A-8-2105(2), the agency shall  
137 determine the amount of the qualified investor's tax credit allocation.  
138 Section 4. Section **35A-8-2104** is enacted to read:  
139 **35A-8-2104. Applying for a tax credit certificate.**  
140 (1) A qualified investor:  
141 (a) may claim a tax credit against the qualified investor's tax liability under:  
142 (i) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or  
143 (ii) Title 50, Chapter 10, Individual Income Tax Act; and  
144 (b) is eligible to apply for a tax credit certificate in accordance with this section:  
145 (i) after the qualified investor pays the qualified investment to the developer for an  
146 urban redevelopment project; and  
147 (ii) if the urban redevelopment project receives one or more local contributions that  
148 equal at least 50% of the tax credit allocation.  
149 (2) (a) A qualified investor shall submit an application to the division for a tax credit  
150 certificate.  
151 (b) The application described in Subsection (2)(a) shall include:

- 152 (i) a copy of the resolution described in Subsection 35A-8-2103(4);
- 153 (ii) the qualified investor's tax identification number;
- 154 (iii) proof that the qualified investor made the qualified investment; and
- 155 (iv) any additional information the division requests.
- 156 (3) The division shall verify the application described in Subsection (2) and issue a tax
- 157 credit certificate as described in Subsection (4).
- 158 (4) The division shall, in accordance with Section 35A-8-2105:
- 159 (a) issue the first tax credit certificate no later than January 1 of the year immediately
- 160 following the year in which the division verifies an application described in Subsection (2);
- 161 (b) issue a tax credit certificate on each subsequent credit allocation date; and
- 162 (c) provide the State Tax Commission a copy of each tax credit certificate described in
- 163 Subsections (4)(a) and (b).

164 Section 5. Section 35A-8-2105 is enacted to read:

165 **35A-8-2105. Tax credit structure.**

- 166 (1) (a) The division may allocate up to \$4,000,000 of tax credit to all qualified
- 167 investors each fiscal year.
- 168 (b) The division shall allocate tax credits to qualified investors in the order in which
- 169 the division receives the qualified investors' applications described in Subsection
- 170 35A-8-2104(2).
- 171 (2) (a) A tax credit allocation may not exceed 35% of the qualified investment.
- 172 (b) On each credit allowance date for 10 consecutive years, the qualified investor may
- 173 claim an equal proportion of the tax credit allocation.

174 Section 6. Section 35A-8-2106 is enacted to read:

175 **35A-8-2106. Monitoring and recapture.**

- 176 (1) On or before December 1 of each year during which a qualified investor claims a
- 177 portion of the qualified investor's tax credit allocation, the developer shall prepare and
- 178 electronically submit a report to the agency and the division that includes:
- 179 (a) a description of the progress made toward completing the urban redevelopment
- 180 project;
- 181 (b) a detailed statement of the developer's expenditures related to the urban
- 182 redevelopment project; and

- 183 (c) any additional information the agency or division requests.
- 184 (2) The division may recapture a tax credit from a qualified investor that claims a tax  
185 credit authorized under Section [59-7-621](#) or [59-10-1036](#):
- 186 (a) if the developer redeems or makes principal repayment with respect to a qualified  
187 investment before the 10th anniversary of the first credit allocation date; and
- 188 (b) in an amount proportionate to the amount of the redemption or repayment.
- 189 (3) The division may not recapture a tax credit until the division:
- 190 (a) notifies the qualified investor of noncompliance; and
- 191 (b) gives the qualified investor six months from the day on which the division provides  
192 the notice described in Subsection (3)(a) to cure the noncompliance.
- 193 (4) A recaptured tax credit under this section reverts back to the division and shall be  
194 reissued in accordance with Section [35A-8-2104](#).
- 195 Section 7. Section **59-7-621** is enacted to read:
- 196 **59-7-621. Nonrefundable tax credit for urban redevelopment project.**
- 197 (1) As used in this section:
- 198 (a) "Agency" means a community development and renewal agency, as defined in  
199 Section [17C-1-102](#).
- 200 (b) "Division" means the Housing and Community Development Division.
- 201 (c) "Qualified investor" means the same as that term is defined in Section [35A-8-2102](#).
- 202 (d) "Tax credit certificate" means the same as that term is defined in Section  
203 [35A-8-2102](#).
- 204 (e) "Urban redevelopment project" means the same as that term is defined in Section  
205 [35A-8-2102](#).
- 206 (2) Subject to the provisions of this section, a qualified investor may claim a  
207 nonrefundable tax credit against the qualified investor's tax liability under this chapter.
- 208 (3) The tax credit under this section is the amount listed as the tax credit amount on a  
209 tax credit certificate that the division issues under Title 35A, Chapter 8, Part 21, Urban  
210 Redevelopment Tax Credit, to the qualified investor for a taxable year.
- 211 (4) A qualified investor may carry forward a tax credit claimed for a given taxable year  
212 for a period that does not exceed 10 taxable years after the taxable year indicated on the tax  
213 credit certificate if, for the taxable year:

214 (a) the qualified investor is allowed to claim a tax credit under this section; and  
215 (b) the amount of the tax credit exceeds the qualified investor's tax liability under this  
216 chapter.

217 (5) (a) On or before October 1, 2021, and every five years after October 1, 2021, the  
218 Revenue and Taxation Interim Committee shall study the tax credit authorized by this section  
219 and make a recommendation to the Legislative Management Committee concerning whether  
220 the Legislature should continue, modify, or repeal the tax credit.

221 (b) For purposes of the study described in Subsection (5)(a), the division shall, in  
222 consultation with the agency, provide the following information to the Revenue and Taxation  
223 Interim Committee by electronic means:

224 (i) the amount of tax credit that the division grants to each qualified investor for each  
225 taxable year;

226 (ii) the progress of each urban redevelopment project for which a tax credit was  
227 authorized; and

228 (iii) any other information that the Revenue and Taxation Interim Committee requests.

229 (c) The Revenue and Taxation Interim Committee shall ensure that the Revenue and  
230 Taxation Interim Committee's recommendation under Subsection (5)(a) includes an evaluation  
231 of:

232 (i) the cost of the tax credit to the state;

233 (ii) the purpose and effectiveness of the tax credit; and

234 (iii) the extent to which the state benefits from the tax credit.

235 Section 8. Section **59-10-1036** is enacted to read:

236 **59-10-1036. Nonrefundable tax credit for urban redevelopment project.**

237 (1) As used in this section:

238 (a) "Agency" means a community development and renewal agency, as defined in  
239 Section [17C-1-102](#).

240 (b) "Division" means the Housing and Community Development Division.

241 (c) "Qualified investor" means the same as that term is defined in Section [35A-8-2102](#).

242 (d) "Tax credit certificate" means the same as that term is defined in Section  
243 [35A-8-2102](#).

244 (e) "Urban redevelopment project" means the same as that term is defined in Section



245 [35A-8-2102.](#)

246 (2) Subject to the provisions of this section, a qualified investor may claim a  
247 nonrefundable tax credit against the qualified investor's tax liability under this chapter.

248 (3) The tax credit under this section is the amount listed as the tax credit amount on a  
249 tax credit certificate that the division issues under Title 35A, Chapter 8, Part 21, Urban  
250 Redevelopment Tax Credit, to the qualified investor for a taxable year.

251 (4) A qualified investor may carry forward a tax credit claimed for a taxable year for a  
252 period that does not exceed 10 taxable years after the taxable year indicated on the tax credit  
253 certificate if, for the taxable year:

254 (a) the qualified investor is allowed to claim a tax credit under this section; and

255 (b) the amount of the tax credit exceeds the qualified investor's tax liability under this  
256 chapter.

257 (5) (a) On or before October 1, 2021, and every five years after October 1, 2021, the  
258 Revenue and Taxation Interim Committee shall study the tax credit authorized by this section  
259 and make a recommendation to the Legislative Management Committee concerning whether  
260 the Legislature should continue, modify, or repeal the tax credit.

261 (b) For purposes of the study described in Subsection (5)(a), the division shall, in  
262 consultation with the agency, provide the following information to the Revenue and Taxation  
263 Interim Committee by electronic means:

264 (i) the amount of tax credit that the division grants to each qualified investor for each  
265 taxable year;

266 (ii) the progress of each urban redevelopment project for which a tax credit was  
267 authorized; and

268 (iii) any other information that the Revenue and Taxation Interim Committee requests.

269 (c) The Revenue and Taxation Interim Committee shall ensure that the Revenue and  
270 Taxation Interim Committee's recommendation under Subsection (5)(a) includes an evaluation  
271 of:

272 (i) the cost of the tax credit to the state;

273 (ii) the purpose and effectiveness of the tax credit; and

274 (iii) the extent to which the state benefits from the tax credit.

275 Section 9. **Effective date.**

276

This bill takes effect on January 1, 2017.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**