

HB0036S01 compared with HB0036

~~{deleted text}~~ shows text that was in HB0036 but was deleted in HB0036S01.

Inserted text shows text that was not in HB0036 but was inserted into HB0036S01.

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Representative Rebecca P. Edwards proposes the following substitute bill:

AFFORDABLE HOUSING AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rebecca P. Edwards

Senate Sponsor: _____

LONG TITLE

~~{Committee Note:~~

~~_____The Economic Development and Workforce Services Interim Committee recommended this bill.~~

~~{General Description:~~

This bill modifies provisions related to housing and community development.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Economic Revitalization and Investment Fund;
- ▶ establishes requirements for the distribution of money from the fund;
- ▶ modifies state low-income housing tax credit provisions; and
- ▶ makes technical and conforming changes.

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Money Appropriated in this Bill:

This bill appropriates in fiscal year 2018:

- ▶ to the Department of Workforce Services -- ~~{Housing}~~Economic Revitalization and ~~{Community Development}~~Investment Fund, as a one-time appropriation:
 - from the General Fund, \$4,000,000; and
- ▶ to the Department of Workforce Services -- Olene Walker Housing Loan Fund, ~~{ \$2,000,000; and }~~as a one-time appropriation:
 - from the General Fund ~~{ -- Economic Revitalization and Investment Fund }~~, ~~{ \$4 }~~\$2,000,000.

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

35A-8-501, as renumbered and amended by Laws of Utah 2012, Chapter 212

35A-8-506, as renumbered and amended by Laws of Utah 2012, Chapter 212

59-7-607, as last amended by Laws of Utah 2016, Chapters 135 and 289

59-10-1010, as last amended by Laws of Utah 2016, Chapters 135 and 289

~~{ ——— 63J-1-602.2, as last amended by Laws of Utah 2015, Chapters 86, 93, and 189~~

~~{~~ENACTS:

35A-8-509, Utah Code Annotated 1953

35A-8-510, Utah Code Annotated 1953

35A-8-511, Utah Code Annotated 1953

35A-8-512, Utah Code Annotated 1953

35A-8-513, Utah Code Annotated 1953

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

Section 1. Section **35A-8-501** is amended to read:

35A-8-501. Definitions.

As used in this part:

(1) "Affordable housing" means housing occupied or reserved for occupancy by households whose incomes are at or below certain income requirements at rental rates

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affordable to such households.

[~~(1)~~] (2) "Board" means the Housing Board created by this part.

~~{ (3) "Economic Revitalization Fund" means the Economic Revitalization and Investment Fund created in Section 35A-8-509.~~

† [~~(2)~~] (~~(4)~~(3)) "Fund" means the Olene Walker Housing Loan Fund created by this part.

(~~(5)~~(4)) (a) "Housing sponsor" means a person who constructs, develops, rehabilitates, purchases, or owns a housing development that is or will be subject to legally enforceable restrictive covenants that require the housing development to provide, at least in part, affordable housing.

(b) "Housing sponsor" may include:

(i) a local public body;

(ii) a nonprofit, limited profit, or for profit corporation;

(iii) a limited partnership;

(iv) a limited liability company;

(v) a joint venture;

(vi) a subsidiary of the Utah Housing Corporation;

(vii) a cooperative;

(viii) a mutual housing organization;

(ix) a local government;

(x) a local housing authority;

(xi) a regional or statewide nonprofit housing or assistance organization; or

(xii) any other entity that helps provide affordable housing.

[~~(3)~~] (~~(6)~~(5)) "Rural" means a county in the state other than Utah, Salt Lake, Davis, or Weber.

Section 2. Section **35A-8-506** is amended to read:

35A-8-506. Duties of the executive director.

[~~(1)~~] The executive director, with the approval of the board, may grant or lend fund money to a housing [~~sponsors~~] sponsor.

[~~(2)~~] "~~Housing sponsor" includes a person who constructs, develops, rehabilitates, purchases, or owns a housing development that is or will be subject to legally enforceable restrictive covenants that require the housing development to provide, at least in part,~~

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~~residential housing to low and moderate income persons:]~~

~~[(3) A housing sponsor includes:]~~

~~[(a) a local public body;]~~

~~[(b) a nonprofit, limited profit, or for profit corporation;]~~

~~[(c) a limited partnership;]~~

~~[(d) a limited liability company;]~~

~~[(e) a joint venture;]~~

~~[(f) a subsidiary of the Utah Housing Corporation or any subsidiary of the subsidiary of the Utah Housing Corporation;]~~

~~[(g) a cooperative;]~~

~~[(h) a mutual housing organization;]~~

~~[(i) a local government;]~~

~~[(j) a local housing authority;]~~

~~[(k) a regional or statewide nonprofit housing or assistance organization; or]~~

~~[(l) any other type of entity or arrangement that helps provide affordable housing for low and moderate income persons:]~~

Section 3. Section **35A-8-509** is enacted to read:

35A-8-509. Economic Revitalization and Investment Fund.

(1) There is created an enterprise fund known as the "Economic Revitalization and Investment Fund."

(2) The Economic Revitalization ~~and Investment~~ Fund consists of money from the following:

(a) money appropriated to the account by the Legislature;

(b) private contributions;

(c) donations or grants from public or private entities; and

(d) money returned to the department under Section 35A-8-512.

(3) The Economic Revitalization ~~and Investment~~ Fund shall earn interest, which shall be deposited into the Economic Revitalization ~~and Investment~~ Fund.

(4) ~~{Upon appropriation by the Legislature, the}~~ ~~The~~ executive director may distribute money from the Economic Revitalization ~~and Investment~~ Fund to one or more projects that:

(a) include affordable housing units for households:

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(i) whose income is no more than 30% of the area median income for households of the same size in the county or municipality where the project is located; and

(ii) at rental rates no greater than the rates described in Subsection 35A-8-511(2)(b);
and

(b) have been approved by the board in accordance with Section 35A-8-510.

(5) (a) A housing sponsor may apply to the department to receive a distribution in accordance with Subsection (4).

(b) The application shall include:

(i) the location of the project;

(ii) the number, size, and tenant income requirements of affordable housing units described in Subsection (4)(a) that will be included in the project; and

(iii) a written commitment to enter into a deed restriction that reserves for a period of 30 years the affordable housing units described in Subsection (5)(b)(ii) or their equivalent for occupancy by households that meet the income requirements described in Subsection (5)(b)(ii).

(c) The commitment in Subsection (5)(b)(iii) shall be considered met if a housing unit is:

(i) (A) occupied or reserved for occupancy by a household whose income is no more than 30% of the area median income for households of the same size in the county or municipality where the project is located; or

(B) occupied by a household whose income is no more than 60% of the area median income for households of the same size in the county or municipality where the project is located if that household met the income requirement described in Subsection (4)(a) when the household originally entered into the lease agreement for the housing unit; and

(ii) rented at a rate no greater than the rate described in Subsection 35A-8-511(2)(b).

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make additional rules providing procedures for a person to apply to the department to receive a distribution described in Subsection (4).

~~(6) In accordance with Section 63J-1-602.2, appropriations to the Economic Revitalization Fund are nonlapsing.~~

‡ Section 4. Section **35A-8-510** is enacted to read:

35A-8-510. Housing loan fund board approval.

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(1) The board shall review the project applications described in Subsection 35A-8-509(5).

(2) The board may approve a project that meets the requirements of Subsections 35A-8-509(4) and (5) to receive funds from the Economic Revitalization and Investment Fund.

(3) The board shall give preference to projects:

(a) that include significant additional or matching funds from an individual, private organization, or local government entity;

(b) that include significant contributions by the applicant to total project costs, including contributions secured by the applicant from other sources such as professional, craft, and trade services and lender interest rate subsidies;

(c) with significant local government contributions in the form of infrastructure, improvements, or other assistance;

(d) where the applicant has demonstrated the ability, stability, and resources to complete the project;

(e) that will serve the greatest need;

(f) that promote economic development benefits;

(g) that allow integration into a local government housing plan;

(h) that would mitigate or correct existing health, safety, or welfare concerns; or

(i) that remedy a gap in the supply of and demand for affordable housing.

Section 5. Section **35A-8-511** is enacted to read:

35A-8-511. Activities authorized to receive account money.

(1) ~~{Subject to appropriation, the}~~ The executive director may distribute funds from the Economic Revitalization and Investment Fund for any of the following activities undertaken as part of an approved project:

(a) the acquisition, rehabilitation, or new construction of a building that includes affordable housing units;

(b) the purchase of land for the construction of a building that will include affordable housing units; or

(c) pre-development work, including planning, studies, design, and site work for a building that will include affordable housing units.

(2) The maximum amount of money that may be distributed from the Economic

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Revitalization and Investment Fund for each affordable housing unit that has been committed in accordance with Subsection 35A-8-509(5)(b)(iii) is the present value, based on the current market interest rate as determined by the board for a multi-family mortgage loan in the county or metropolitan area where the project is located, of 360 monthly payments equal to the difference between:

(a) the most recent United States Department of Housing and Urban Development fair market rent for a unit of the same size in the county or metropolitan area where the project is located; and

(b) an affordable rent equal to 30% of the income requirement described in Subsection 35A-8-509(5)(b)(ii) for a household of:

- (i) one person if the unit is an efficiency unit;
- (ii) two people if the unit is a one-bedroom unit;
- (iii) four people if the unit is a two-bedroom unit;
- (iv) five people if the unit is a three-bedroom unit;
- (v) six people if the unit is a four-bedroom unit; or
- (vi) eight people if the unit is a five-bedroom or larger unit.

Section 6. Section **35A-8-512** is enacted to read:

35A-8-512. Repayment of funds.

(1) Upon the earlier of 30 years from the date an approved project is placed in service or the sale or transfer of the affordable housing units acquired, constructed, or rehabilitated as part of an approved project funded under Section 35A-8-511, the housing sponsor shall remit to the department:

(a) the total amount of money distributed by the department to the housing sponsor for the project; and

(b) an additional amount of money determined by contract with the department prior to the initial disbursement of money from the Economic Revitalization and Investment Fund.

(2) Any claim arising under Subsection (1) is a lien against the real property funded under this chapter.

(3) Any money returned to the department under Subsection (1) shall be deposited in the Economic Revitalization and Investment Fund.

Section 7. Section **35A-8-513** is enacted to read:

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35A-8-513. Annual accounting.

(1) The executive director shall monitor the activities of recipients of funds from the Economic Revitalization **and Investment** Fund on a yearly basis to ensure compliance with the terms and conditions imposed on the recipient by the executive director with the approval of the board.

(2) A housing sponsor that receives funds from the Economic Revitalization **and Investment** Fund shall provide the executive director with an annual accounting of how the money the entity received from the Economic Revitalization **and Investment** Fund has been spent and evidence that the commitment described in Subsection 35A-8-509(5) has been met.

(3) The executive director shall make an annual report to the board accounting for the expenditures authorized by the board.

(4) The board shall submit a report to the department for inclusion in the annual written report described in Section 35A-1-109 that includes:

(a) an accounting for expenditures authorized by the board; and

(b) an evaluation of the effectiveness of the program.

Section 8. Section **59-7-607** is amended to read:

59-7-607. Utah low-income housing tax credit.

(1) As used in this section:

(a) "Allocation certificate" means a certificate in a form prescribed by the commission and issued by the Utah Housing Corporation to a housing sponsor that specifies the aggregate amount of the tax credit awarded under this section to a qualified development and includes:

~~[(i) the certificate prescribed by the commission and issued by the Utah Housing Corporation to each taxpayer that specifies the percentage of the annual federal low-income housing tax credit that each taxpayer may take as an annual credit against state income tax; or]~~

~~[(ii) a copy of the allocation certificate that the housing sponsor provides to the taxpayer.]~~

(i) the aggregate annual amount of the tax credit awarded that may be claimed by one or more qualified taxpayers that have been issued a special low-income housing tax credit certificate; and

(ii) the credit period over which the tax credit may be claimed by one or more qualified taxpayers that have been issued a special low-income housing tax credit certificate.

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(b) "Building" means a qualified low-income building as defined in Section 42(c), Internal Revenue Code.

(c) "Credit period" means the "credit period" as defined in Section 42(f)(1), Internal Revenue Code.

(d) (i) "Designated reporter" means, as selected by a housing sponsor, the housing sponsor itself or one of the housing sponsor's direct or indirect partners, members, or shareholders that will provide information to the Utah Housing Corporation regarding the assignment of tax credits under this section.

(ii) Before the Utah Housing Corporation may issue an allocation certificate to a housing sponsor, a housing sponsor shall provide the identity of the housing sponsor's designated reporter to the Utah Housing Corporation.

(iii) Before the Utah Housing Corporation may issue a special low-income housing tax credit certificate to a qualified taxpayer, a designated reporter shall provide the information described in Subsection ~~(47)6~~ to the Utah Housing Corporation.

~~[(c)]~~ (e) "Federal low-income housing tax credit" means the federal tax credit ~~[under]~~ described in Section 42, Internal Revenue Code.

~~[(d)]~~ (f) "Housing sponsor" means ~~[a corporation in the case of a C corporation, a partnership in the case of a partnership, a corporation in the case of an S corporation, or a limited liability company in the case of a limited liability company]~~ an entity that owns a qualified development.

~~[(e)]~~ (g) "Qualified allocation plan" means ~~[the]~~ a qualified allocation plan adopted by the Utah Housing Corporation ~~[pursuant to]~~ in accordance with Section 42(m), Internal Revenue Code.

(h) "Qualified development" means a "qualified low-income housing project":

(i) as defined in Section 42(g)(1), Internal Revenue Code; and

(ii) that is located in the state.

(i) (i) "Qualified taxpayer" means a person that:

(A) owns a direct or indirect interest in a qualified development; and

(B) meets the requirements to claim a tax credit under this section.

(ii) If a housing sponsor is a partnership, limited liability company, or S corporation, a "qualified taxpayer" may include any partner, member, or shareholder of the housing sponsor

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as determined by the governing documents of the housing sponsor.

~~[(f)]~~ (j) (i) "Special low-income housing tax credit certificate" means a certificate:

~~[(f)]~~ (A) in a form prescribed by the commission;

~~[(ii)]~~ (B) that ~~[a housing sponsor]~~ the Utah Housing Corporation issues to a qualified taxpayer for a taxable year in accordance with this section; and

~~[(iii)]~~ (C) that specifies the amount of the tax credit a qualified taxpayer may claim under this section ~~[if the taxpayer meets the requirements of this section].~~

(ii) The Utah Housing Corporation may only issue one or more special low-income housing tax credit certificates if the aggregate specified amount on all special low-income housing tax credit certificates issued in relation to a qualified development does not exceed the aggregate amount of tax credit awarded to the qualified development and issued to a housing sponsor in an allocation certificate.

~~[(g)]~~ "Taxpayer" means a person that is allowed a tax credit in accordance with this section which is the corporation in the case of a C corporation, the partners in the case of a partnership, the shareholders in the case of an S corporation, and the members in the case of a limited liability company.]

(2) (a) For taxable years beginning on or after January 1, 1995, ~~[there is allowed]~~ a qualified taxpayer who has been issued a special low-income housing tax credit certificate by the Utah Housing Corporation may claim a nonrefundable tax credit against taxes otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax~~[, for taxpayers issued an allocation certificate]~~ Act.

(b) The tax credit shall be in an amount equal to ~~[the greater of the amount of:]~~ the tax credit amount specified on the special low-income housing tax credit certificate that the Utah Housing Corporation issues to a qualified taxpayer under this section.

~~[(i)]~~ federal low-income housing tax credit to which the taxpayer is allowed during that year multiplied by the percentage specified in an allocation certificate issued by the Utah Housing Corporation; or]

~~[(ii)]~~ tax credit specified in the special low-income housing tax credit certificate that the housing sponsor issues to the taxpayer as provided in Subsection (2)(c).]

~~[(c)]~~ For purposes of Subsection (2)(b)(ii), the tax credit is equal to the product of:]

~~[(i)]~~ the total amount of low-income housing tax credit under this section that:]

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~~[(A) a housing sponsor is allowed for a building; and]~~

~~[(B) all of the taxpayers may claim with respect to the building if the taxpayers meet the requirements of this section; and]~~

~~[(ii) the percentage of tax credit a taxpayer may claim:]~~

~~[(A) under this section if the taxpayer meets the requirements of this section; and]~~

~~[(B) as provided in the agreement between the taxpayer and the housing sponsor.]~~

~~[(d)]~~ (c) (i) For ~~[the]~~ a calendar year beginning ~~[on January 1, 1995, through the calendar year beginning on January 1, 2025]~~ on or before December 31, 2016, the aggregate annual tax credit that the Utah Housing Corporation may allocate for the credit period described in Section 42(f), Internal Revenue Code, pursuant to this section and Section 59-10-1010 is an amount equal to the product of:

(A) 12.5 cents; and

(B) the population of Utah.

(ii) For a calendar year beginning on or after January 1, 2017, the aggregate annual tax credit that the Utah Housing Corporation may allocate for the credit period described in Section 42(f), Internal Revenue Code, pursuant to this section and Section 59-10-1010 is an amount equal to the product of:

(A) 34.5 cents; and

(B) the population of Utah.

~~[(ii)]~~ (iii) For purposes of this section, the population of Utah shall be determined in accordance with Section 146(j), Internal Revenue Code.

(3) (a) The Utah Housing Corporation shall determine criteria and procedures for allocating the tax credit under this section and Section 59-10-1010 and incorporate the criteria and procedures into the Utah Housing Corporation's qualified allocation plan.

(b) The Utah Housing Corporation shall create the criteria under Subsection (3)(a) based on:

(i) the number of affordable housing units to be created in Utah for low and moderate income persons in ~~[the residential housing development of which the building is a part]~~ a qualified development;

(ii) the level of area median income being served by ~~[the]~~ a qualified development;

(iii) the need for the tax credit for the economic feasibility of ~~[the]~~ a qualified

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development; and

(iv) the extended period for which ~~[the]~~ a qualified development commits to remain as affordable housing.

~~[(4) (a) The following may apply to the Utah Housing Corporation for a tax credit under this section:]~~

~~[(i) any housing sponsor that has received an allocation of the federal low-income housing tax credit; or]~~

~~[(ii) any applicant for an allocation of the federal low-income housing tax credit.]~~

~~[(b) The Utah Housing Corporation may not require fees for applications of the tax credit under this section in addition to those fees required for applications for the federal low-income housing tax credit.]~~

(4) Any housing sponsor may apply to the Utah Housing Corporation for a tax credit allocation under this section.

(5) (a) The Utah Housing Corporation shall determine the amount of the tax credit to allocate to a ~~[qualifying housing sponsor]~~ qualified development in accordance with the qualified allocation plan of the Utah Housing Corporation.

(b) (i) The Utah Housing Corporation ~~[shall allocate the tax credit to housing sponsors in the same manner that it allocates federal low-income housing credits and]~~ shall issue an allocation certificate to ~~[qualifying housing sponsors]~~ a housing sponsor as evidence of the allocation.

(ii) The allocation certificate under Subsection (5)(b)(i) shall specify ~~[the allowed percentage of the federal low-income housing tax credit as determined by the Utah Housing Corporation]~~ the amount of the tax credit allocated to a qualified development as determined by the Utah Housing Corporation.

(c) The ~~[percentage]~~ amount of the tax credit specified in an allocation certificate may not exceed 100% of the federal low-income housing tax credit awarded to a qualified development.

~~[(6) A housing sponsor shall provide a copy of the allocation certificate to each taxpayer that is issued a special low-income housing tax credit certificate.]~~

~~[(7) (a) A housing sponsor shall provide to the commission a list of:]~~

~~[(i) the taxpayers issued a special low-income housing tax credit certificate; and]~~

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~~[(ii) for each taxpayer described in Subsection (7)(a)(i), the amount of tax credit listed on the special low-income housing tax credit certificate;]~~

~~[(b) A housing sponsor shall provide the list required by Subsection (7)(a):]~~

~~[(i) to the commission;]~~

~~[(ii) on a form provided by the commission; and]~~

~~[(iii) with the housing sponsor's tax return for each taxable year for which the housing sponsor issues a special low-income housing tax credit certificate described in this Subsection (7):]~~

(6) Before the Utah Housing Corporation may issue a special low-income housing tax credit certificate, a designated reporter shall provide to the Utah Housing Corporation in a form prescribed by the Utah Housing Corporation:

(a) a list of each qualified taxpayer that has been assigned a portion of the tax credit awarded in an allocation certificate;

(b) for each qualified taxpayer described in Subsection (6)(a), the amount of tax credit that has been assigned; and

(c) an aggregate list of the tax credit amount assigned related to a qualified development demonstrating that the aggregate annual amount of the tax credits assigned does not exceed the aggregate annual tax credit awarded in the allocation certificate.

(7) The Utah Housing Corporation shall provide a special low-income housing tax credit certificate to a qualified taxpayer if:

(a) a designated reporter has provided the information regarding the qualified taxpayer as described in Subsection (6); and

(b) the Utah Housing Corporation has verified that the aggregate tax credit amount assigned with respect to a qualified development does not exceed the total tax credit awarded in the allocation certificate.

(8) (a) All elections made by ~~[the taxpayer]~~ a housing sponsor pursuant to Section 42, Internal Revenue Code, shall apply to this section.

(b) (i) If a ~~[taxpayer]~~ qualified development is required to recapture a portion of any federal low-income housing tax credit, ~~[the]~~ then each qualified taxpayer shall also be required to recapture a portion of any state tax credits authorized by this section.

(ii) The state recapture amount shall be equal to the percentage of the state tax credit

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that equals the proportion the federal recapture amount bears to the original federal low-income housing tax credit amount subject to recapture.

(iii) The designated reporter shall identify each qualified taxpayer that is required to recapture a portion of any state tax credit as described in this Subsection (8)(b).

(9) (a) Any tax credits returned to the Utah Housing Corporation in any year may be reallocated within the same time period as provided in Section 42, Internal Revenue Code.

(b) Tax credits that are unallocated by the Utah Housing Corporation in any year may be carried over for allocation in subsequent years.

~~[(10)(a) Amounts otherwise qualifying for the tax credit, but not allowable because the tax credit exceeds the tax, may be carried back three years or may be carried forward five years as a credit against the tax.]~~

(10) (a) If a tax credit is not claimed by a qualified taxpayer in the year in which it is earned because the tax credit is more than the tax owed by the qualified taxpayer, the tax credit may be carried back three years or may be carried forward five years as a credit against the tax.

(b) Carryover tax credits under Subsection (10)(a) shall be applied against the tax:

- (i) before the application of the tax credits earned in the current year; and
- (ii) on a first-earned first-used basis.

(11) Any tax credit taken in this section may be subject to an annual audit by the commission.

(12) The Utah Housing Corporation shall annually provide an electronic report to the Revenue and Taxation Interim Committee which shall include at least:

- (a) the purpose and effectiveness of the tax credits; and
- (b) the benefits of the tax credits to the state.

(13) The commission may, in consultation with the Utah Housing Corporation, ~~[promulgate rules]~~ make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.

Section 9. Section **59-10-1010** is amended to read:

59-10-1010. Utah low-income housing tax credit.

(1) As used in this section:

(a) "Allocation certificate" means a certificate in a form prescribed by the commission and issued by the Utah Housing Corporation to a housing sponsor that specifies the aggregate

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amount of the tax credit awarded under this section to a qualified development and includes:

~~[(i) the certificate prescribed by the commission and issued by the Utah Housing Corporation to each claimant, estate, or trust that specifies the percentage of the annual federal low-income housing credit that each claimant, estate, or trust may take as an annual tax credit against a tax imposed by this chapter; or]~~

~~[(ii) a copy of the allocation certificate that the housing sponsor provides to the claimant, estate, or trust.]~~

(i) the aggregate annual amount of the tax credit awarded that may be claimed by one or more qualified taxpayers that have been issued a special low-income housing tax credit certificate; and

(ii) the credit period over which the tax credit may be claimed by one or more qualified taxpayers that have been issued a special low-income housing tax credit certificate.

(b) "Building" means a qualified low-income building as defined in Section 42(c), Internal Revenue Code.

(c) "Credit period" means the "credit period" as defined in Section 42(f)(1), Internal Revenue Code.

(d) (i) "Designated reporter" means, as selected by a housing sponsor, the housing sponsor itself or one of the housing sponsor's direct or indirect partners, members, or shareholders that will provide information to the Utah Housing Corporation regarding the assignment of tax credits under this section.

(ii) Before the Utah Housing Corporation may issue an allocation certificate to a housing sponsor, a housing sponsor shall provide the identity of the housing sponsor's designated reporter to the Utah Housing Corporation.

(iii) Before the Utah Housing Corporation may issue a special low-income housing tax credit certificate to a qualified taxpayer, a designated reporter shall provide the information described in Subsection ~~(f)(7)~~(6) to the Utah Housing Corporation.

~~[(c)]~~ (e) "Federal low-income housing credit" means the federal low-income housing credit ~~[under]~~ described in Section 42, Internal Revenue Code.

~~[(d)]~~ (f) "Housing sponsor" means ~~[a corporation in the case of a C corporation, a partnership in the case of a partnership, a corporation in the case of an S corporation, or a limited liability company in the case of a limited liability company]~~ an entity that owns a

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qualified development.

~~[(e)]~~ (g) "Qualified allocation plan" means ~~[the]~~ a qualified allocation plan adopted by the Utah Housing Corporation [pursuant to] in accordance with Section 42(m), Internal Revenue Code.

(h) "Qualified development" means a "qualified low-income housing project":

(i) as defined in Section 42(g)(1), Internal Revenue Code; and

(ii) that is located in the state.

(i) (i) "Qualified taxpayer" means a claimant, estate, or trust that:

(A) owns a direct or indirect interest in a qualified development; and

(B) meets the requirements to claim a tax credit under this section.

(ii) If a housing sponsor is a partnership, limited liability company, or S corporation, a "qualified taxpayer" may include any partner, member, or shareholder of the housing sponsor as determined by the governing documents of the housing sponsor.

~~[(f)]~~ (j) (i) "Special low-income housing tax credit certificate" means a certificate:

~~[(i)]~~ (A) in a form prescribed by the commission;

~~[(ii)]~~ (B) that [a housing sponsor] the Utah Housing Corporation issues to a [claimant, estate, or trust] qualified taxpayer for a taxable year in accordance with this section; and

~~[(iii)]~~ (C) that specifies the amount of [a] the tax credit a [claimant, estate, or trust] qualified taxpayer may claim under this section [if the claimant, estate, or trust meets the requirements of this section].

(ii) The Utah Housing Corporation may only issue one or more special low-income housing tax credit certificates if the aggregate specified amount on all special low-income housing tax credit certificates issued in relation to a qualified development does not exceed the aggregate amount of tax credit awarded to a qualified development and issued to a housing sponsor in an allocation certificate.

(2) (a) For taxable years beginning on or after January 1, 1995, ~~[there is allowed]~~ a qualified taxpayer who has been issued a special low-income housing tax credit certificate by the Utah Housing Corporation may claim a nonrefundable tax credit against taxes otherwise due under this chapter [for a claimant, estate, or trust issued an allocation certificate].

(b) The tax credit shall be in an amount equal to ~~[the greater of the amount of:]~~ the tax credit amount specified on the special low-income housing tax credit certificate that the Utah

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Housing Corporation issues to a qualified taxpayer under this section.

~~[(i) federal low-income housing credit to which the claimant, estate, or trust is allowed during that year multiplied by the percentage specified in an allocation certificate issued by the Utah Housing Corporation; or]~~

~~[(ii) tax credit specified in the special low-income housing tax credit certificate that the housing sponsor issues to the claimant, estate, or trust as provided in Subsection (2)(c).]~~

~~[(c) For purposes of Subsection (2)(b)(ii), the tax credit is equal to the product of:]~~

~~[(i) the total amount of low-income housing tax credit under this section that:]~~

~~[(A) a housing sponsor is allowed for a building; and]~~

~~[(B) all of the claimants, estates, and trusts may claim with respect to the building if the claimants, estates, and trusts meet the requirements of this section; and]~~

~~[(ii) the percentage of tax credit a claimant, estate, or trust may claim:]~~

~~[(A) under this section if the claimant, estate, or trust meets the requirements of this section; and]~~

~~[(B) as provided in the agreement between the claimant, estate, or trust and the housing sponsor.]~~

~~[(d)]~~ (c) (i) For ~~[the]~~ a calendar year beginning on ~~[January 1, 1995, through the calendar year beginning on January 1, 2025]~~ or before December 31, 2016, the aggregate annual tax credit that the Utah Housing Corporation may allocate for the credit period described in Section 42(f), Internal Revenue Code, pursuant to this section and Section 59-7-607 is an amount equal to the product of:

(A) 12.5 cents; and

(B) the population of Utah.

(ii) For a calendar year beginning on or after January 1, 2017, the aggregate annual tax credit that the Utah Housing Corporation may allocate for the credit period described in Section 42(f), Internal Revenue Code, pursuant to this section and Section 59-7-607 is an amount equal to the product of:

(A) 34.5 cents; and

(B) the population of Utah.

~~[(ii)]~~ (iii) For purposes of this section, the population of Utah shall be determined in accordance with Section 146(j), Internal Revenue Code.

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(3) (a) The Utah Housing Corporation shall determine criteria and procedures for allocating the tax credit under this section and Section 59-7-607 and incorporate the criteria and procedures into the Utah Housing Corporation's qualified allocation plan.

(b) The Utah Housing Corporation shall create the criteria under Subsection (3)(a) based on:

(i) the number of affordable housing units to be created in Utah for low and moderate income persons in [~~the residential housing development of which the building is a part~~] a qualified development;

(ii) the level of area median income being served by [~~the~~] a qualified development;

(iii) the need for the tax credit for the economic feasibility of [~~the~~] a qualified development; and

(iv) the extended period for which [~~the~~] a qualified development commits to remain as affordable housing.

~~[(4) (a) The following may apply to the Utah Housing Corporation for a tax credit under this section:]~~

~~[(i) any housing sponsor that is a claimant, estate, or trust if that housing sponsor has received an allocation of the federal low-income housing credit; or]~~

~~[(ii) any applicant for an allocation of the federal low-income housing credit if that applicant is a claimant, estate, or trust.]~~

~~[(b) The Utah Housing Corporation may not require fees for applications of the tax credit under this section in addition to those fees required for applications for the federal low-income housing credit.]~~

(4) Any housing sponsor may apply to the Utah Housing Corporation for a tax credit allocation under this section.

(5) (a) The Utah Housing Corporation shall determine the amount of the tax credit to allocate to a [~~qualifying housing sponsor~~] qualified development in accordance with the qualified allocation plan of the Utah Housing Corporation.

(b) (i) The Utah Housing Corporation [~~shall allocate the tax credit to housing sponsors in the same manner that it allocates federal low-income housing credits and~~] shall issue an allocation certificate to [~~qualifying housing sponsors~~] a housing sponsor as evidence of the allocation.

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(ii) The allocation certificate under Subsection (5)(b)(i) shall specify [~~the allowed percentage of the federal low-income housing credit~~] the amount of the tax credit allocated to a qualified development as determined by the Utah Housing Corporation.

(c) The [~~percentage~~] amount of the tax credit specified in an allocation certificate may not exceed 100% of the federal low-income housing credit awarded to a qualified development.

~~[(6) A housing sponsor shall provide a copy of the allocation certificate to each claimant, estate, or trust that is issued a special low-income housing tax credit certificate.]~~

~~[(7)(a) A housing sponsor shall provide to the commission a list of:]~~

~~[(i) the claimants, estates, and trusts issued a special low-income housing tax credit certificate; and]~~

~~[(ii) for each claimant, estate, or trust described in Subsection (7)(a)(i), the amount of tax credit listed on the special low-income housing tax credit certificate.]~~

~~[(b) A housing sponsor shall provide the list required by Subsection (7)(a):]~~

~~[(i) to the commission;]~~

~~[(ii) on a form provided by the commission; and]~~

~~[(iii) with the housing sponsor's tax return for each taxable year for which the housing sponsor issues a special low-income housing tax credit certificate described in this Subsection (7).]~~

(6) Before the Utah Housing Corporation may issue a special low-income housing tax credit certificate, a designated reporter shall provide to the Utah Housing Corporation in a form prescribed by the Utah Housing Corporation:

(a) a list of each qualified taxpayer that has been assigned a portion of the tax credit awarded in an allocation certificate;

(b) for each qualified taxpayer described in Subsection (6)(a), the amount of tax credit that has been assigned; and

(c) an aggregate list of the tax credit amount assigned related to a qualified development demonstrating that the aggregate annual amount of the tax credits assigned does not exceed the aggregate annual tax credit awarded in the allocation certificate.

(7) The Utah Housing Corporation shall provide a special low-income housing tax credit certificate to a qualified taxpayer if:

(a) a designated reporter has provided the information regarding the qualified taxpayer

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as described in Subsection (6); and

(b) the Utah Housing Corporation has verified that the aggregate tax credit amount assigned with respect to a qualified development does not exceed the total tax credit awarded in the allocation certificate.

(8) (a) All elections made by [~~the claimant, estate, or trust~~] a housing sponsor pursuant to Section 42, Internal Revenue Code, shall apply to this section.

(b) (i) If a [~~claimant, estate, or trust~~] qualified taxpayer is required to recapture a portion of any federal low-income housing credit, the [~~claimant, estate, or trust~~] qualified taxpayer shall also be required to recapture a portion of any state tax credits authorized by this section.

(ii) The state recapture amount shall be equal to the percentage of the state tax credit that equals the proportion the federal recapture amount bears to the original federal low-income housing credit amount subject to recapture.

(iii) The designated reporter shall identify each qualified taxpayer that is required to recapture a portion of any state tax credits as described in this Subsection (8)(b).

(9) (a) Any tax credits returned to the Utah Housing Corporation in any year may be reallocated within the same time period as provided in Section 42, Internal Revenue Code.

(b) Tax credits that are unallocated by the Utah Housing Corporation in any year may be carried over for allocation in subsequent years.

~~[(10)(a) Amounts otherwise qualifying for the tax credit, but not allowable because the tax credit exceeds the tax, may be carried back three years or may be carried forward five years as a tax credit.]~~

(10) (a) If a tax credit is not claimed by a qualified taxpayer in the year in which it is earned because the tax credit is more than the tax owed by the qualified taxpayer, the tax credit may be carried back three years or may be carried forward five years as a credit against the tax.

(b) Carryover tax credits under Subsection (10)(a) shall be applied against the tax:

(i) before the application of the tax credits earned in the current year; and

(ii) on a first-earned first-used basis.

(11) Any tax credit taken in this section may be subject to an annual audit by the commission.

(12) The Utah Housing Corporation shall annually provide an electronic report to the

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Revenue and Taxation Interim Committee which shall include at least:

- (a) the purpose and effectiveness of the tax credits; and
- (b) the benefits of the tax credits to the state.

(13) The commission may, in consultation with the Utah Housing Corporation, promulgate rules to implement this section.

Section 10. ~~{Section 63J-1-602.2 is amended to read:~~

~~63J-1-602.2. List of nonlapsing}~~ **Appropriation for expendable** funds and accounts ~~{ -- Title 31 through Title 45.~~

~~(1) Appropriations from the Technology Development Restricted Account created in Section 31A-3-104.~~

~~(2) Appropriations from the Criminal Background Check Restricted Account created in Section 31A-3-105.~~

~~(3) Appropriations from the Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.~~

~~(4) Appropriations from the Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.~~

~~(5) Appropriations from the Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.~~

~~(6) Appropriations from the Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.~~

~~(7) Appropriations from the Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.~~

~~(8) Funding for the General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.~~

~~(9) The Economic Revitalization and Investment Fund created in Section 35A-8-509.~~

~~[(9)] (10) The Youth Development Organization Restricted Account created in Section 35A-8-1903.~~

~~[(10)] (11) The Youth Character Organization Restricted Account created in Section 35A-8-2003.~~

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~~— [(11)] (12) Funding for a new program or agency that is designated as nonlapsing under Section 36-24-101.~~

~~— [(12)] (13) Appropriations to the Utah National Guard, created in Title 39, Militia and Armories.~~

~~— [(13)] (14) Appropriations from the Oil and Gas Conservation Account created in Section 40-6-14.5.~~

~~— [(14)] (15) Appropriations from the Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.~~

~~— [(15)] (16) Funds available to the Tax Commission under Section 41-1a-1201 for the:~~

~~— (a) purchase and distribution of license plates and decals; and~~

~~— (b) administration and enforcement of motor vehicle registration requirements.~~

~~— [(16)] (17) Appropriations from the Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the Tax Commission.~~

~~— Section 11. Appropriation.~~

~~— The following sums of money are appropriated;~~

~~The Legislature has reviewed the following expendable funds for the fiscal year beginning ~~{July}~~ July 1, 2017, and ending June 30, 2018. These amounts are additions to amounts ~~{previously appropriated}~~ otherwise reviewed for fiscal year 2018. ~~{Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the}~~ The Legislature ~~{appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah}~~ authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated. Outlays and expenditures from the recipient funds may be made without further legislative action according to a fund's applicable authorizing statute.~~

~~To Department of Workforce Services -- ~~{Housing}~~ Economic Revitalization
and ~~{Community Development}~~ Investment Fund~~

~~From General Fund, One-time~~ ~~{6}~~ \$4,000,000

~~{From General Fund}~~ Schedule of Programs:

Economic Revitalization and

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Investment Fund

\$4,000,000

To Department of Workforce Services -- Olene Walker Housing Loan Fund

One-time

\$2,000,000

From General Fund -- Economic Revitalization and Investment Fund

One-time

\$4

\$2,000,000

Schedule of Programs:

Olene Walker Housing Loan Fund

\$2,000,000

Economic Revitalization

\$4,000,000

The Legislature intends that:

(1) under Section 63J-1-603 appropriations provided under this section not lapse at the close of fiscal year 2017;

(2) up to \$1,000,000 of the one-time appropriation to the Olene Walker Housing Fund be used by the Housing and Community Development Division to provide funding for transit-oriented development; and

(3) up to \$1,000,000 of the one-time appropriation to the Olene Walker Housing Fund be used by the Housing and Community Development Division to develop a pilot program for reimbursing persons under certain limited circumstances who provide housing to tenants using Federal Housing Choice Vouchers.

Section 11. Retrospective operation.

The amendments to Sections 59-7-607 and 59-10-1010 have retrospective operation for a taxable year beginning on or after January 1, 2017.

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Legislative Review Note

Office of Legislative Research and General Counsel