

1 **TAX INCREMENT FINANCING REVISIONS**

2 2017 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Howard A. Stephenson**

5 House Sponsor: Steve Eliason

6 Cosponsor: Lincoln Fillmore

7

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies provisions related to tax increment for community reinvestment
11 agencies.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ reduces the amount of tax increment that a project area may receive from a school
15 district; and

16 ▶ makes technical and conforming changes.

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **17C-1-102**, as last amended by Laws of Utah 2016, Chapter 350

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

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



27 **17C-1-102. Definitions.**

28 As used in this title:

29 (1) "Active project area" means a project area that has not been dissolved in accordance
30 with Section 17C-1-702.

31 (2) "Adjusted tax increment" means the percentage of tax increment, if less than 100%,
32 that an agency is authorized to receive:

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

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

37 (c) under a project area budget approved by a taxing entity committee; or

38 (d) under an interlocal agreement that authorizes the agency to receive a taxing entity's
39 tax increment.

40 (3) "Affordable housing" means housing owned or occupied by a low or moderate
41 income family, as determined by resolution of the agency.

42 (4) "Agency" or "community reinvestment agency" means a separate body corporate
43 and politic, created under Section 17C-1-201.5 or as a redevelopment agency or community
44 development and renewal agency under previous law:

45 (a) that is a political subdivision of the state;

46 (b) that is created to undertake or promote project area development as provided in this
47 title; and

48 (c) whose geographic boundaries are coterminous with:

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

50 (ii) for an agency created by a municipality, the boundaries of the municipality.

51 (5) "Agency funds" means money that an agency collects or receives for the purposes
52 of agency operations or implementing a project area plan, including:

53 (a) project area funds;

54 (b) income, proceeds, revenue, or property derived from or held in connection with the
55 agency's undertaking and implementation of project area development; or

56 (c) a contribution, loan, grant, or other financial assistance from any public or private
57 source.

58 (6) "Annual income" means the same as that term is defined in regulations of the
59 United States Department of Housing and Urban Development, 24 C.F.R. Sec. 5.609, as
60 amended or as superseded by replacement regulations.

61 (7) "Assessment roll" means the same as that term is defined in Section 59-2-102.

62 (8) "Base taxable value" means, unless otherwise adjusted in accordance with
63 provisions of this title, a property's taxable value as shown upon the assessment roll last
64 equalized during the base year.

65 (9) "Base year" means, except as provided in Subsection 17C-1-402(4)(c), the year
66 during which the assessment roll is last equalized:

67 (a) for a pre-July 1, 1993, urban renewal or economic development project area plan,
68 before the project area plan's effective date;

69 (b) for a post-June 30, 1993, urban renewal or economic development project area
70 plan, or a community reinvestment project area plan that is subject to a taxing entity
71 committee:

72 (i) before the date on which the taxing entity committee approves the project area
73 budget; or

74 (ii) if taxing entity committee approval is not required for the project area budget,
75 before the date on which the community legislative body adopts the project area plan;

76 (c) for a project on an inactive airport site, after the later of:

77 (i) the date on which the inactive airport site is sold for remediation and development;

78 or

79 (ii) the date on which the airport that operated on the inactive airport site ceased
80 operations; or

81 (d) for a community development project area plan or a community reinvestment
82 project area plan that is subject to an interlocal agreement, as described in the interlocal
83 agreement.

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

86 (11) "Blight" or "blighted" means the condition of an area that meets the requirements
87 described in Subsection 17C-2-303(1) for an urban renewal project area or Section 17C-5-405
88 for a community reinvestment project area.

89 (12) "Blight hearing" means a public hearing regarding whether blight exists within a
90 proposed:

91 (a) urban renewal project area under Subsection 17C-2-102(1)(a)(i)(C) and Section
92 17C-2-302; or

93 (b) community reinvestment project area under Section 17C-5-405.

94 (13) "Blight study" means a study to determine whether blight exists within a survey
95 area as described in Section 17C-2-301 for an urban renewal project area or Section 17C-5-403
96 for a community reinvestment project area.

97 (14) "Board" means the governing body of an agency, as described in Section
98 17C-1-203.

99 (15) "Budget hearing" means the public hearing on a proposed project area budget
100 required under Subsection 17C-2-201(2)(d) for an urban renewal project area budget,
101 Subsection 17C-3-201(2)(d) for an economic development project area budget, or Subsection
102 17C-5-302(2)(e) for a community reinvestment project area budget.

103 (16) "Closed military base" means land within a former military base that the Defense
104 Base Closure and Realignment Commission has voted to close or realign when that action has
105 been sustained by the president of the United States and Congress.

106 (17) "Combined incremental value" means the combined total of all incremental values
107 from all project areas, except project areas that contain some or all of a military installation or
108 inactive industrial site, within the agency's boundaries under project area plans and project area
109 budgets at the time that a project area budget for a new project area is being considered.

110 (18) "Community" means a county or municipality.

111 (19) "Community development project area plan" means a project area plan adopted
112 under Chapter 4, Part 1, Community Development Project Area Plan.

113 (20) "Community legislative body" means the legislative body of the community that
114 created the agency.

115 (21) "Community reinvestment project area plan" means a project area plan adopted
116 under Chapter 5, Part 1, Community Reinvestment Project Area Plan.

117 (22) "Contest" means to file a written complaint in the district court of the county in
118 which the agency is located.

119 (23) "Economic development project area plan" means a project area plan adopted

120 under Chapter 3, Part 1, Economic Development Project Area Plan.

121 (24) "Fair share ratio" means the ratio derived by:

122 (a) for a municipality, comparing the percentage of all housing units within the
123 municipality that are publicly subsidized income targeted housing units to the percentage of all
124 housing units within the county in which the municipality is located that are publicly
125 subsidized income targeted housing units; or

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

130 (25) "Family" means the same as that term is defined in regulations of the United
131 States Department of Housing and Urban Development, 24 C.F.R. [~~Section~~] Sec. 5.403, as
132 amended or as superseded by replacement regulations.

133 (26) "Greenfield" means land not developed beyond agricultural, range, or forestry use.

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

138 (28) "Housing allocation" means tax increment allocated for housing under Section
139 [17C-2-203](#), [17C-3-202](#), or [17C-5-307](#) for the purposes described in Section [17C-1-412](#).

140 (29) "Housing fund" means a fund created by an agency for purposes described in
141 Section [17C-1-411](#) or [17C-1-412](#) that is comprised of:

142 (a) project area funds allocated for the purposes described in Section [17C-1-411](#); or
143 (b) an agency's housing allocation.

144 (30) (a) "Inactive airport site" means land that:

145 (i) consists of at least 100 acres;

146 (ii) is occupied by an airport:

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

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

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

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

- 151 (iii) requires remediation because:
- 152 (A) of the presence of hazardous waste or solid waste; or
- 153 (B) the site lacks sufficient public infrastructure and facilities, including public roads,
- 154 electric service, water system, and sewer system, needed to support development of the site.
- 155 (b) "Inactive airport site" includes a perimeter of up to 2,500 feet around the land
- 156 described in Subsection (30)(a).
- 157 (31) (a) "Inactive industrial site" means land that:
- 158 (i) consists of at least 1,000 acres;
- 159 (ii) is occupied by an inactive or abandoned factory, smelter, or other heavy industrial
- 160 facility; and
- 161 (iii) requires remediation because of the presence of hazardous waste or solid waste.
- 162 (b) "Inactive industrial site" includes a perimeter of up to 1,500 feet around the land
- 163 described in Subsection (31)(a).
- 164 (32) "Income targeted housing" means housing that is owned or occupied by a family
- 165 whose annual income is at or below 80% of the median annual income for a family within the
- 166 county in which the housing is located.
- 167 (33) "Incremental value" means a figure derived by multiplying the marginal value of
- 168 the property located within a project area on which tax increment is collected by a number that
- 169 represents the adjusted tax increment from that project area that is paid to the agency.
- 170 (34) "Loan fund board" means the Olene Walker Housing Loan Fund Board,
- 171 established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.
- 172 (35) (a) " Local government building" means a building owned and operated by a
- 173 community for the primary purpose of providing one or more primary community functions,
- 174 including:
- 175 (i) a fire station;
- 176 (ii) a police station;
- 177 (iii) a city hall; or
- 178 (iv) a court or other judicial building.
- 179 (b) " Local government building" does not include a building the primary purpose of
- 180 which is cultural or recreational in nature.
- 181 (36) "Marginal value" means the difference between actual taxable value and base

182 taxable value.

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

186 (38) "Municipality" means a city, town, or metro township as defined in Section
187 [10-2a-403](#).

188 (39) "Participant" means one or more persons that enter into a participation agreement
189 with an agency.

190 (40) "Participation agreement" means a written agreement between a person and an
191 agency that:

192 (a) includes a description of:

193 (i) the project area development that the person will undertake;

194 (ii) the amount of project area funds the person may receive; and

195 (iii) the terms and conditions under which the person may receive project area funds;

196 and

197 (b) is approved by resolution of the board.

198 (41) "Plan hearing" means the public hearing on a proposed project area plan required
199 under Subsection [17C-2-102\(1\)\(a\)\(vi\)](#) for an urban renewal project area plan, Subsection
200 [17C-3-102\(1\)\(d\)](#) for an economic development project area plan, Subsection [17C-4-102\(1\)\(d\)](#)
201 for a community development project area plan, or Subsection [17C-5-104\(3\)\(e\)](#) for a
202 community reinvestment project area plan.

203 (42) "Post-June 30, 1993, project area plan" means a project area plan adopted on or
204 after July 1, 1993, and before May 10, 2016, whether or not amended subsequent to the project
205 area plan's adoption.

206 (43) "Pre-July 1, 1993, project area plan" means a project area plan adopted before July
207 1, 1993, whether or not amended subsequent to the project area plan's adoption.

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

209 (a) not owned by a public entity or any other governmental entity; and

210 (b) not dedicated to public use.

211 (45) "Project area" means the geographic area described in a project area plan within
212 which the project area development described in the project area plan takes place or is

213 proposed to take place.

214 (46) "Project area budget" means a multiyear projection of annual or cumulative
215 revenues and expenses and other fiscal matters pertaining to a project area prepared in
216 accordance with:

217 (a) for an urban renewal project area, Section 17C-2-202;

218 (b) for an economic development project area, Section 17C-3-202;

219 (c) for a community development project area, Section 17C-4-204; or

220 (d) for a community reinvestment project area, Section 17C-5-302.

221 (47) "Project area development" means activity within a project area that, as
222 determined by the board, encourages, promotes, or provides development or redevelopment for
223 the purpose of implementing a project area plan, including:

224 (a) promoting, creating, or retaining public or private jobs within the state or a
225 community;

226 (b) providing office, manufacturing, warehousing, distribution, parking, or other
227 facilities or improvements;

228 (c) planning, designing, demolishing, clearing, constructing, rehabilitating, or
229 remediating environmental issues;

230 (d) providing residential, commercial, industrial, public, or other structures or spaces,
231 including recreational and other facilities incidental or appurtenant to the structures or spaces;

232 (e) altering, improving, modernizing, demolishing, reconstructing, or rehabilitating
233 existing structures;

234 (f) providing open space, including streets or other public grounds or space around
235 buildings;

236 (g) providing public or private buildings, infrastructure, structures, or improvements;

237 (h) relocating a business;

238 (i) improving public or private recreation areas or other public grounds;

239 (j) eliminating blight or the causes of blight;

240 (k) redevelopment as defined under the law in effect before May 1, 2006; or

241 (l) any activity described in Subsections (47)(a) through (k) outside of a project area
242 that the board determines to be a benefit to the project area.

243 (48) "Project area funds" means tax increment or sales and use tax revenue that an

244 agency receives under a project area budget adopted by a taxing entity committee or an
245 interlocal agreement.

246 (49) "Project area funds collection period" means the period of time that:

247 (a) begins the day on which the first payment of project area funds is distributed to an
248 agency under a project area budget adopted by a taxing entity committee or an interlocal
249 agreement; and

250 (b) ends the day on which the last payment of project area funds is distributed to an
251 agency under a project area budget adopted by a taxing entity committee or an interlocal
252 agreement.

253 (50) "Project area plan" means an urban renewal project area plan, an economic
254 development project area plan, a community development project area plan, or a community
255 reinvestment project area plan that, after the project area plan's effective date, guides and
256 controls the project area development.

257 (51) (a) "Property tax" means each levy on an ad valorem basis on tangible or
258 intangible personal or real property.

259 (b) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4, Privilege
260 Tax.

261 (52) "Public entity" means:

262 (a) the United States, including an agency of the United States;

263 (b) the state, including any of the state's departments or agencies; or

264 (c) a political subdivision of the state, including a county, municipality, school district,
265 local district, special service district, or interlocal cooperation entity.

266 (53) "Publicly owned infrastructure and improvements" means water, sewer, storm
267 drainage, electrical, natural gas, telecommunication, or other similar systems and lines, streets,
268 roads, curb, gutter, sidewalk, walkways, parking facilities, public transportation facilities, or
269 other facilities, infrastructure, and improvements benefitting the public and to be publicly
270 owned or publicly maintained or operated.

271 (54) "Record property owner" or "record owner of property" means the owner of real
272 property, as shown on the records of the county in which the property is located, to whom the
273 property's tax notice is sent.

274 (55) "Sales and use tax revenue" means revenue that is:

275 (a) generated from a tax imposed under Title 59, Chapter 12, Sales and Use Tax Act;
276 and

277 (b) distributed to a taxing entity in accordance with Sections 59-12-204 and 59-12-205.

278 (56) "Superfund site":

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

281 (b) includes an area formerly included in the National Priorities List, as described in
282 Subsection (56)(a), but removed from the list following remediation that leaves on site the
283 waste that caused the area to be included in the National Priorities List.

284 (57) "Survey area" means a geographic area designated for study by a survey area
285 resolution to determine whether one or more project areas within the survey area are feasible.

286 (58) "Survey area resolution" means a resolution adopted by a board under Subsection
287 17C-2-101.5(1) or 17C-5-103(1) designating a survey area.

288 (59) "Taxable value" means:

289 (a) the taxable value of all real property a county assessor assesses in accordance with
290 Title 59, Chapter 2, Part 3, County Assessment, for the current year;

291 (b) the taxable value of all real and personal property the commission assesses in
292 accordance with Title 59, Chapter 2, Part 2, Assessment of Property, for the current year; and

293 (c) the year end taxable value of all personal property a county assessor assesses in
294 accordance with Title 59, Chapter 2, Part 3, County Assessment, contained on the prior year's
295 tax rolls of the taxing entity.

296 (60) (a) "Tax increment" means ~~[the difference between]:~~

297 (i) the difference between:

298 ~~[(i)]~~ (A) the amount of property tax revenue generated each tax year by a taxing entity
299 from the area within a project area designated in the project area plan as the area from which
300 tax increment is to be collected, using the current assessed value of the property; and

301 ~~[(ii)]~~ (B) the amount of property tax revenue that would be generated from that same
302 area using the base taxable value of the property~~[-];~~ or

303 (ii) if the taxing entity is a school district, 50% of the amount described in Subsection
304 (60)(a)(i), unless:

305 (A) the project area plan is adopted before May 9, 2017, regardless of whether the

306 project area plan is subsequently amended; and

307 (B) before May 9, 2017, the revenue is pledged to support bond indebtedness or the
308 agency's other contractual obligations.

309 (b) "Tax increment" does not include revenue generated from taxes levied and
310 collected upon the taxable property in a project area under Section 59-2-1602 on or after
311 January 1, 1994, [~~upon the taxable property in the project area~~] unless:

312 (i) the project area plan [~~was~~] is adopted before May 4, 1993, regardless of whether [~~or~~
313 ~~not~~] the project area plan [~~was~~] is subsequently amended; and

314 (ii) the [~~taxes were~~] revenue is pledged to support bond indebtedness or the agency's
315 other contractual obligations [~~of the agency~~].

316 (61) "Taxing entity" means a public entity that:

317 (a) levies a tax on property located within a project area; or

318 (b) imposes a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.

319 (62) "Taxing entity committee" means a committee representing the interests of taxing
320 entities, created in accordance with Section 17C-1-402.

321 (63) "Unincorporated" means not within a municipality.

322 (64) "Urban renewal project area plan" means a project area plan adopted under
323 Chapter 2, Part 1, Urban Renewal Project Area Plan.

Legislative Review Note
Office of Legislative Research and General Counsel