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QUALITY GROWTH ACT

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Joel Ferry

Senate Sponsor: Jani Iwamoto

LONG TITLE

General Description:

This bill modifies provisions related to quality growth.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ grants rulemaking authority;
- ▶ directs the use of ranking criteria;
- ▶ prioritizes funding for working agricultural land;
- ▶ allows certain organizations to hold an interest in real property purchased with money from the program; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 11-38-102**, as last amended by Laws of Utah 2013, Chapter 310
- 11-38-202**, as last amended by Laws of Utah 2009, Chapter 368
- 11-38-302**, as last amended by Laws of Utah 2017, Chapter 345



28

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

30 Section 1. Section **11-38-102** is amended to read:

31 **11-38-102. Definitions.**

32 As used in this chapter:

33 (1) "Accredited land trust entity" means an entity that is accredited to act as a land trust
34 by an entity designated by the commission by rule made in accordance with Subsection
35 11-38-202(3).

36 ~~[(1)]~~ (2) "Affordable housing" means housing occupied or reserved for occupancy by
37 households with a gross household income equal to or less than 80% of the median gross
38 income of the applicable municipal or county statistical area for households of the same size.

39 ~~[(2)]~~ (3) "Agricultural land" has the same meaning as "land in agricultural use" under
40 Section 59-2-502.

41 ~~[(3)]~~ (4) "Brownfield sites" means abandoned, idled, or underused commercial or
42 industrial land where expansion or redevelopment is complicated by real or perceived
43 environmental contamination.

44 ~~[(4)]~~ (5) "Commission" means the Quality Growth Commission established in Section
45 11-38-201.

46 ~~[(5)]~~ (6) "Infill development" means residential, commercial, or industrial development
47 on unused or underused land, excluding open land and agricultural land, within existing,
48 otherwise developed urban areas.

49 ~~[(6)]~~ (7) "Local entity" means a county, city, or town.

50 ~~[(7)]~~ (8) (a) "Open land" means land that is:

51 (i) preserved in or restored to a predominantly natural, open, and undeveloped
52 condition; and

53 (ii) used for:

54 (A) wildlife habitat;

55 (B) cultural or recreational use;

56 (C) watershed protection; or

57 (D) another use consistent with the preservation of the land in or restoration of the land
58 to a predominantly natural, open, and undeveloped condition.

59 (b) (i) "Open land" does not include land whose predominant use is as a developed
60 facility for active recreational activities, including baseball, tennis, soccer, golf, or other
61 sporting or similar activity.

62 (ii) The condition of land does not change from a natural, open, and undeveloped
63 condition because of the development or presence on the land of facilities, including trails,
64 waterways, and grassy areas, that:

65 (A) enhance the natural, scenic, or aesthetic qualities of the land; or

66 (B) facilitate the public's access to or use of the land for the enjoyment of its natural,
67 scenic, or aesthetic qualities and for compatible recreational activities.

68 [~~8~~] (9) "Program" means the LeRay McAllister Critical Land Conservation Program
69 established in Section 11-38-301.

70 [~~9~~] (10) "Surplus land" means real property owned by the Department of
71 Administrative Services, the Department of Agriculture and Food, the Department of Natural
72 Resources, or the Department of Transportation that the individual department determines not
73 to be necessary for carrying out the mission of the department.

74 (11) (a) "Working agricultural land" means agricultural land for which an owner or
75 producer engages in the activity of producing for commercial purposes crops, orchards,
76 livestock, poultry, aquaculture, livestock products, or poultry products and the facilities,
77 equipment, and property used to facilitate the activity.

78 (b) "Working agricultural land" includes an agricultural protection area established
79 under Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials
80 Protection Areas.

81 Section 2. Section 11-38-202 is amended to read:

82 **11-38-202. Commission duties and powers -- No regulatory authority --**

83 **Rulemaking -- Criteria.**

84 (1) The commission shall:

85 (a) make recommendations to the Legislature on how to define more specifically
86 quality growth areas within the general guidelines provided to the commission by the
87 Legislature;

88 (b) advise the Legislature on growth management issues;

89 (c) make recommendations to the Legislature on refinements to this chapter;

90 (d) conduct a review in 2002 and each year thereafter to determine progress statewide
91 on accomplishing the purposes of this chapter, and give a report of each review to the Political
92 Subdivisions Interim Committee of the Legislature by November 30 of the year of the review;

93 (e) administer the program as provided in this chapter;

94 (f) assist as many local entities as possible, at their request, to identify principles of
95 growth that the local entity may consider implementing to help achieve the highest possible
96 quality of growth for that entity;

97 (g) fulfill other responsibilities imposed on the commission by the Legislature; and

98 (h) fulfill all other duties imposed on the commission by this chapter.

99 (2) The commission may sell, lease, or otherwise dispose of equipment or personal
100 property belonging to the program, the proceeds from which shall return to the fund.

101 (3) The commission may not exercise any regulatory authority. The commission may
102 make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to
103 designate a nationally recognized entity that establishes standards and accredits an entity to
104 operate as a land trust.

105 (4) In carrying out the commission's powers and duties under this chapter, the
106 commission shall adopt ranking criteria that is substantially similar to the ranking criteria used
107 by the Agriculture Conservation Easement Program and Agriculture Land Easement as
108 determined by the Natural Resources Conservation Service under the United States Department
109 of Agriculture.

110 Section 3. Section **11-38-302** is amended to read:

111 **11-38-302. Use of money in program -- Criteria -- Administration.**

112 (1) Subject to Subsection (2), the commission may authorize the use of money in the
113 program, by grant, to:

114 (a) a local entity;

115 (b) the Department of Natural Resources created under Section [79-2-201](#);

116 (c) the Department of Agriculture and Food created under Section [4-2-102](#); or

117 (d) a charitable organization that qualifies as being tax exempt under Section 501(c)(3),
118 Internal Revenue Code.

119 (2) (a) The money in the program shall be used for preserving or restoring open land
120 and agricultural land.

121 (b) (i) Except as provided in Subsection (2)(b)(ii), money from the program may not be
122 used to purchase a fee interest in real property in order to preserve open land or agricultural
123 land, but may be used to establish a conservation easement under Title 57, Chapter 18, Land
124 Conservation Easement Act, or to fund similar methods to preserve open land or agricultural
125 land.

126 (ii) Notwithstanding Subsection (2)(b)(i), money from the fund may be used to
127 purchase a fee interest in real property to preserve open land or agricultural land if:

128 (A) the parcel to be purchased is no more than 20 acres in size; and

129 (B) with respect to a parcel purchased in a county in which over 50% of the land area is
130 publicly owned, real property roughly equivalent in size and located within that county is
131 contemporaneously transferred to private ownership from the governmental entity that
132 purchased the fee interest in real property.

133 (iii) Eminent domain may not be used or threatened in connection with any purchase
134 using money from the program.

135 (iv) A parcel of land larger than 20 acres in size may not be divided into separate
136 parcels smaller than 20 acres each to meet the requirement of Subsection (2)(b)(ii).

137 (c) A local entity, department, or organization under Subsection (1) may not receive
138 money from the program unless [it] the local entity, department, or organization provides
139 matching funds equal to or greater than the amount of money received from the program.

140 (d) In granting money from the program, the commission may impose conditions on
141 the recipient as to how the money is to be spent.

142 (e) The commission shall give priority to:

143 (i) working agricultural land; and

144 (ii) after giving priority to working agricultural land under Subsection (2)(e)(i),

145 requests from the Department of Natural Resources for up to 20% of each annual increase in
146 the amount of money in the program if the money is used for the protection of wildlife or
147 watershed.

148 (f) (i) The commission may not make a grant from the program that exceeds
149 \$1,000,000 until after making a report to the Legislative Management Committee about the
150 grant.

151 (ii) The Legislative Management Committee may make a recommendation to the

152 commission concerning the intended grant, but the recommendation is not binding on the
153 commission.

154 (3) In determining the amount and type of financial assistance to provide an entity,
155 department, or organization under Subsection (1) and subject to Subsection (2)(f), the
156 commission shall consider:

157 (a) the nature and amount of open land and agricultural land proposed to be preserved
158 or restored;

159 (b) the qualities of the open land and agricultural land proposed to be preserved or
160 restored;

161 (c) the cost effectiveness of the project to preserve or restore open land or agricultural
162 land;

163 (d) the funds available;

164 (e) the number of actual and potential applications for financial assistance and the
165 amount of money sought by those applications;

166 (f) the open land preservation plan of the local entity where the project is located and
167 the priority placed on the project by that local entity;

168 (g) the effects on housing affordability and diversity; and

169 (h) whether the project protects against the loss of private property ownership.

170 (4) If a local entity, department, or organization under Subsection (1) seeks money
171 from the program for a project whose purpose is to protect critical watershed, the commission
172 shall require that the needs and quality of that project be verified by the state engineer.

173 (5) [~~Each~~] An interest in real property purchased with money from the program shall
174 be held and administered by the state [~~or~~], a local entity, or an accredited land trust entity.