

HB0305S01 compared with HB0305

~~{deleted text}~~ shows text that was in HB0305 but was deleted in HB0305S01.

inserted text shows text that was not in HB0305 but was inserted into HB0305S01.

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Representative Joel Ferry proposes the following substitute bill:

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:

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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

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

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

11-38-102. Definitions.

As used in this chapter:

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

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

{ (2) (3) "Agricultural land" has the same meaning as "land in agricultural use" under Section 59-2-502.

{ (3) (4) "Brownfield sites" means abandoned, idled, or underused commercial or industrial land where expansion or redevelopment is complicated by real or perceived environmental contamination.

{ (4) (5) "Commission" means the Quality Growth Commission established in Section 11-38-201.

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

{ (6) (7) (7) "Local entity" means a county, city, or town.

{ (7) (7) (8) (a) "Open land" means land that is:

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

(ii) used for:

(A) wildlife habitat;

(B) cultural or recreational use;

(C) watershed protection; or

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

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

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

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

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

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

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

~~(11)~~10 (a) "Working agricultural land" means agricultural land for which an owner or producer engages in the activity of producing for commercial purposes crops, orchards, livestock, poultry, aquaculture, livestock products, or poultry products and the facilities, equipment, and property used to facilitate the activity.

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

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

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

Rulemaking -- Criteria.

(1) The commission shall:

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

(b) advise the Legislature on growth management issues;

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

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

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

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

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

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

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

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

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

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

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

(1) Subject to Subsection (2), the commission may authorize the use of money in the

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program, by grant, to:

- (a) a local entity;
- (b) the Department of Natural Resources created under Section 79-2-201;
- (c) the Department of Agriculture and Food created under Section 4-2-102; or
- (d) a charitable organization that qualifies as being tax exempt under Section 501(c)(3),

Internal Revenue Code.

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

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

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

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

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

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

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

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

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

(e) The commission shall give priority to:

(i) working agricultural land; and

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(ii) after giving priority to working agricultural land under Subsection (2)(e)(i).
requests from the Department of Natural Resources for up to 20% of each annual increase in the amount of money in the program if the money is used for the protection of wildlife or watershed.

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

(ii) The Legislative Management Committee may make a recommendation to the commission concerning the intended grant, but the recommendation is not binding on the commission.

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

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

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

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

(d) the funds available;

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

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

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

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

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

(5) ~~Each~~ An interest in real property purchased with money from the program shall be held and administered by the state ~~{f} or {j}~~ a local entity ~~{, or an accredited land trust~~

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entity}.
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