

1 **UTAH HOUSING AFFORDABILITY AMENDMENTS**

2 2021 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Jacob L. Anderegg**

5 House Sponsor: Steve Waldrip

6

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions related to affordable housing and the provision of services
10 related to affordable housing.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ provides that a political subdivision may grant real property that will be used for
14 affordable housing units;
- 15 ▶ describes additional activities that may receive funding from the Olene Walker
16 Housing Loan Fund, including a mediation program and predevelopment grants;
- 17 ▶ modifies the responsibilities of the Automated Geographic Reference Center; and
- 18 ▶ makes technical changes.

19 **Money Appropriated in this Bill:**

20 This bill appropriates in fiscal year 2022:

- 21 ▶ to the Department of Workforce Services -- Olene Walker Housing Loan Fund as a
22 one-time appropriation:
 - 23 • from the General Fund, One-time, \$800,000.

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**

27 AMENDS:

28 **10-9a-401**, as last amended by Laws of Utah 2019, Chapters 136 and 327

- 29 [10-9a-404](#), as last amended by Laws of Utah 2020, Chapter 434
- 30 [10-9a-408](#), as last amended by Laws of Utah 2020, Chapter 434
- 31 [35A-8-505](#), as last amended by Laws of Utah 2020, Chapter 241
- 32 [63F-1-507](#), as last amended by Laws of Utah 2019, Chapter 35

33 ENACTS:

- 34 [10-8-501](#), Utah Code Annotated 1953
- 35 [35A-8-507.5](#), Utah Code Annotated 1953

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

38 Section 1. Section **10-8-501** is enacted to read:

39 **Part 5. Grants for Affordable Housing**

40 **10-8-501. Grant of real property for affordable housing.**

41 (1) As used in this part, "affordable housing unit" means a rental housing unit where a
42 household whose income is no more than 50% of the area median income for households
43 where the housing unit is located is able to occupy the housing unit paying no more than 31%
44 of the household's income for gross housing costs including utilities.

45 (2) Subject to the requirements of this section, and for a municipality, Subsection
46 10-8-2(4), a political subdivision may grant real property owned by the political subdivision to
47 an entity for the development of one or more affordable housing units on the real property that
48 will serve households at various income levels whereby at least 20% of the housing units are
49 affordable housing units.

50 (3) A political subdivision shall ensure that real property granted as described in
51 Subsection (2) is deed restricted for affordable housing for at least 30 years after the day on
52 which each affordable housing unit is completed and occupied.

53 (4) If applicable, a political subdivision granting real property under this section shall
54 comply with the provisions of Title 78B, Chapter 6, Part 5, Eminent Domain.

55 (5) A municipality granting real property under this section is not subject to the

56 provisions of Subsection 10-8-2(3).

57 Section 2. Section **10-9a-401** is amended to read:

58 **10-9a-401. General plan required -- Content.**

59 (1) In order to accomplish the purposes of this chapter, each municipality shall prepare
60 and adopt a comprehensive, long-range general plan for:

- 61 (a) present and future needs of the municipality; and
- 62 (b) growth and development of all or any part of the land within the municipality.

63 (2) The general plan may provide for:

64 (a) health, general welfare, safety, energy conservation, transportation, prosperity, civic
65 activities, aesthetics, and recreational, educational, and cultural opportunities;

66 (b) the reduction of the waste of physical, financial, or human resources that result
67 from either excessive congestion or excessive scattering of population;

68 (c) the efficient and economical use, conservation, and production of the supply of:

- 69 (i) food and water; and
- 70 (ii) drainage, sanitary, and other facilities and resources;
- 71 (d) the use of energy conservation and solar and renewable energy resources;

72 (e) the protection of urban development;

73 (f) if the municipality is a town, the protection or promotion of moderate income
74 housing;

75 (g) the protection and promotion of air quality;

76 (h) historic preservation;

77 (i) identifying future uses of land that are likely to require an expansion or significant
78 modification of services or facilities provided by each affected entity; and

79 (j) an official map.

80 (3) (a) The general plan of a municipality, other than a town, shall plan for moderate
81 income housing growth.

82 (b) On or before December 1, 2019, each of the following that have a general plan that

83 does not comply with Subsection (3)(a) shall amend the general plan to comply with

84 Subsection (3)(a):

85 (i) a city of the first, second, third, or fourth class;

86 (ii) a city of the fifth class with a population of 5,000 or more, if the city is located

87 within a county of the first, second, or third class; and

88 (iii) a metro township with a population of 5,000 or more.

89 (c) The population figures described in Subsections (3)(b)(ii) and (iii) shall be derived

90 from:

91 (i) the most recent official census or census estimate of the United States Census

92 Bureau; or

93 (ii) if a population figure is not available under Subsection (3)(c)(i), an estimate of the

94 Utah Population Committee.

95 (4) Subject to Subsection [10-9a-403](#)~~(2)~~(3), the municipality may determine the

96 comprehensiveness, extent, and format of the general plan.

97 Section 3. Section **10-9a-404** is amended to read:

98 **10-9a-404. Public hearing by planning commission on proposed general plan or**

99 **amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection**

100 **by legislative body.**

101 (1) (a) After completing its recommendation for a proposed general plan, or proposal to

102 amend the general plan, the planning commission shall schedule and hold a public hearing on

103 the proposed plan or amendment.

104 (b) The planning commission shall provide notice of the public hearing, as required by

105 Section [10-9a-204](#).

106 (c) After the public hearing, the planning commission may modify the proposed

107 general plan or amendment.

108 (2) The planning commission shall forward the proposed general plan or amendment to

109 the legislative body.

110 (3) (a) The legislative body may adopt, reject, or make any revisions to the proposed
111 general plan or amendment that it considers appropriate.

112 (b) If the municipal legislative body rejects the proposed general plan or amendment, it
113 may provide suggestions to the planning commission for the planning commission's review and
114 recommendation.

115 (4) The legislative body shall adopt:

116 (a) a land use element as provided in Subsection 10-9a-403~~(2)~~(3)(a)(i);

117 (b) a transportation and traffic circulation element as provided in Subsection
118 10-9a-403~~(2)~~(3)(a)(ii); and

119 (c) for a municipality, other than a town, after considering the factors included in
120 Subsection 10-9a-403~~(2)(b)(ii)~~(3)(b)(iii), a plan to provide a realistic opportunity to meet the
121 need for additional moderate income housing within the next five years.

122 Section 4. Section 10-9a-408 is amended to read:

123 **10-9a-408. Reporting requirements and civil action regarding moderate income**
124 **housing element of general plan.**

125 (1) The legislative body of a municipality described in Subsection 10-9a-401(3)(b)
126 shall annually:

127 (a) review the moderate income housing plan element of the municipality's general
128 plan and implementation of that element of the general plan;

129 (b) prepare a report on the findings of the review described in Subsection (1)(a); and

130 (c) post the report described in Subsection (1)(b) on the municipality's website.

131 (2) The report described in Subsection (1) shall include:

132 (a) a revised estimate of the need for moderate income housing in the municipality for
133 the next five years;

134 (b) a description of progress made within the municipality to provide moderate income
135 housing, demonstrated by analyzing and publishing data on the number of housing units in the
136 municipality that are at or below:

- 137 (i) 80% of the adjusted median family income;
- 138 (ii) 50% of the adjusted median family income; and
- 139 (iii) 30% of the adjusted median family income;
- 140 (c) a description of any efforts made by the municipality to utilize a moderate income
- 141 housing set-aside from a community reinvestment agency, redevelopment agency, or
- 142 community development and renewal agency; and
- 143 (d) a description of how the municipality has implemented any of the recommendations
- 144 related to moderate income housing described in Subsection 10-9a-403~~(2)~~(3)(b)(iii).
- 145 (3) The legislative body of each municipality described in Subsection (1) shall send a
- 146 copy of the report under Subsection (1) to the Department of Workforce Services, the
- 147 association of governments in which the municipality is located, and, if located within the
- 148 boundaries of a metropolitan planning organization, the appropriate metropolitan planning
- 149 organization.
- 150 (4) In a civil action seeking enforcement or claiming a violation of this section or of
- 151 Subsection 10-9a-404(4)(c), a plaintiff may not recover damages but may be awarded only
- 152 injunctive or other equitable relief.
- 153 Section 5. Section **35A-8-505** is amended to read:
- 154 **35A-8-505. Activities authorized to receive fund money -- Powers of the executive**
- 155 **director.**
- 156 At the direction of the board, the executive director may:
- 157 (1) provide fund money to any of the following activities:
- 158 (a) the acquisition, rehabilitation, or new construction of low-income housing units;
- 159 (b) matching funds for social services projects directly related to providing housing for
- 160 special-need renters in assisted projects;
- 161 (c) the development and construction of accessible housing designed for low-income
- 162 persons;
- 163 (d) the construction or improvement of a shelter or transitional housing facility that

164 provides services intended to prevent or minimize homelessness among members of a specific
165 homeless subpopulation;

166 (e) the purchase of an existing facility to provide temporary or transitional housing for
167 the homeless in an area that does not require rezoning before providing such temporary or
168 transitional housing;

169 (f) the purchase of land that will be used as the site of low-income housing units;

170 (g) the preservation of existing affordable housing units for low-income persons; [~~and~~]

171 (h) the award of predevelopment grants in accordance with Section 35A-8-507.5;

172 (i) the creation or financial support of a mediation program for landlords and tenants
173 designed to minimize the loss of housing for low-income persons, which program may include:

174 (i) funding for the hiring or training of mediators;

175 (ii) connecting landlords and tenants with mediation services; and

176 (iii) providing a limited amount of gap funding to assist a tenant in making a good faith
177 payment towards attorney fees, damages, or other costs associated with eviction proceedings or
178 avoiding eviction proceedings; and

179 [~~th~~] (j) other activities that will assist in minimizing homelessness or improving the
180 availability or quality of housing in the state for low-income persons; and

181 (2) do any act necessary or convenient to the exercise of the powers granted by this part
182 or reasonably implied from those granted powers, including:

183 (a) making or executing contracts and other instruments necessary or convenient for
184 the performance of the executive director and board's duties and the exercise of the executive
185 director and board's powers and functions under this part, including contracts or agreements for
186 the servicing and originating of mortgage loans;

187 (b) procuring insurance against a loss in connection with property or other assets held
188 by the fund, including mortgage loans, in amounts and from insurers it considers desirable;

189 (c) entering into agreements with a department, agency, or instrumentality of the
190 United States or this state and with mortgagors and mortgage lenders for the purpose of

191 planning and regulating and providing for the financing and refinancing, purchase,
192 construction, reconstruction, rehabilitation, leasing, management, maintenance, operation, sale,
193 or other disposition of residential housing undertaken with the assistance of the department
194 under this part;

195 (d) proceeding with a foreclosure action, to own, lease, clear, reconstruct, rehabilitate,
196 repair, maintain, manage, operate, assign, encumber, sell, or otherwise dispose of real or
197 personal property obtained by the fund due to the default on a mortgage loan held by the fund
198 in preparation for disposition of the property, taking assignments of leases and rentals,
199 proceeding with foreclosure actions, and taking other actions necessary or incidental to the
200 performance of its duties; and

201 (e) selling, at a public or private sale, with public bidding, a mortgage or other
202 obligation held by the fund.

203 Section 6. Section **35A-8-507.5** is enacted to read:

204 **35A-8-507.5. Predevelopment grants.**

205 (1) The executive director under the direction of the board may:

206 (a) award one or more predevelopment grants to nonprofit or for-profit entities in
207 preparation for the construction of low-income housing units;

208 (b) award a predevelopment grant in an amount of no more than \$50,000 per project;

209 (c) may only award a predevelopment grant in relation to a project in:

210 (i) a city of the fifth or sixth class, or a town, in a rural area of the state; or

211 (ii) any municipality or unincorporated area in a county of the fourth, fifth, or sixth
212 class.

213 (2) The executive director under the direction of the board shall award each
214 predevelopment grant in accordance with the provisions of this section and the provisions
215 related to grant applications, grant awards, and reporting requirements in this part.

216 (3) A predevelopment grant:

217 (a) may be used by a recipient for offsetting the predevelopment funds needed to

218 prepare for the construction of low-income housing units, including market studies, surveys,
219 environmental and impact studies, technical assistance, and preliminary architecture,
220 engineering, or legal work; and

221 (b) may not be used by a recipient for staff salaries of a grant recipient or construction
222 costs.

223 (4) The executive director under the direction of the board shall prioritize the awarding
224 of a predevelopment grant for a project in a county of the fifth or sixth class and where the
225 municipality or unincorporated area has underdeveloped infrastructure as demonstrated by at
226 least two of the following:

227 (a) limited or no availability of natural gas;

228 (b) limited or no availability of a sewer system;

229 (c) limited or no availability of broadband Internet;

230 (d) unpaved residential streets; or

231 (e) limited local construction professionals, vendors, or services.

232 Section 7. Section **63F-1-507** is amended to read:

233 **63F-1-507. State Geographic Information Database.**

234 (1) There is created a State Geographic Information Database to be managed by the
235 center.

236 (2) The database shall:

237 (a) serve as the central reference for all information contained in any GIS database by
238 any state agency;

239 (b) serve as a clearing house and repository for all data layers required by multiple
240 users;

241 (c) serve as a standard format for geographic information acquired, purchased, or
242 produced by any state agency;

243 (d) include an accurate representation of all civil subdivision boundaries of the state;
244 and

245 (e) for each public highway, as defined in Section 72-1-102, in the state, include an
246 accurate representation of the highway's centerline, physical characteristics, and associated
247 street address ranges.

248 (3) The center shall, in coordination with municipalities, counties, emergency
249 communications centers, and the Department of Transportation:

250 (a) develop the information described in Subsection (2)(e); and

251 (b) update the information described in Subsection (2)(e) in a timely manner after a
252 county recorder records a final plat.

253 (4) The center, in coordination with county assessors and metropolitan planning
254 organizations:

255 (a) shall inventory existing housing units and their general characteristics within each
256 county of the first or second class to support infrastructure planning and economic
257 development in each of those counties; and

258 (b) may inventory existing housing units and their general characteristics within one or
259 more counties of the third, fourth, fifth, or sixth class to support infrastructure planning and
260 economic development in one or more of those counties.

261 [~~4~~] (5) Each state agency that acquires, purchases, or produces digital geographic
262 information data shall:

263 (a) inform the center of the existence of the data layers and their geographic extent;

264 (b) allow the center access to all data classified public; and

265 (c) comply with any database requirements established by the center.

266 [~~5~~] (6) At least annually, the State Tax Commission shall deliver to the center
267 information the State Tax Commission receives under Section 67-1a-6.5 relating to the creation
268 or modification of the boundaries of political subdivisions.

269 [~~6~~] (7) The boundary of a political subdivision within the State Geographic
270 Information Database is the official boundary of the political subdivision for purposes of
271 meeting the needs of the United States Bureau of the Census in identifying the boundary of the

272 political subdivision.

273 Section 8. **Appropriation.**

274 The following sums of money are appropriated for the fiscal year beginning July 1,
275 2021, and ending June 30, 2022. These are additions to amounts previously appropriated for
276 fiscal year 2022. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
277 Act, the Legislature appropriates the following sums of money from the funds or accounts
278 indicated for the use and support of the government of the state of Utah.

279 ITEM 1

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

281 From General Fund, One-time \$800,000

282 Schedule of Programs:

283 Olene Walker Housing Loan Fund \$800,000

284 The Legislature intends that:

285 (1) up to \$300,000 of the appropriation in ITEM 1 be used for financing a mediation
286 program for landlords and tenants of low-income housing units;

287 (2) up to \$500,000 of the appropriation in ITEM 1 be used for financing
288 predevelopment grants in advance of the construction of low-income housing units; and

289 (3) under Section [63J-1-603](#), appropriations under Subsections (1) and (2) not lapse at
290 the close of fiscal year 2022.