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Utah Redevelopment Agencies Act

TITLE 17B. LIMITED PURPOSE LOCAL GOVERNMENT ENTITIES CHAPTER 4. REDEVELOPMENT AGENCIES ACT PART 1. GENERAL PROVISIONS

17B-4-101. Title.

This chapter is known as the "Redevelopment Agencies Act."

17B-4-102. Definitions.

(1) "Agency" means a separate body corporate and politic, created under Section **17B-4-201** or previous law, that is a political subdivision of the state, that is created to undertake or promote redevelopment, economic development, or education housing development, or any combination of them, as provided in this chapter, and whose geographic boundaries are coterminous with:

- (a) for an agency created by a county, the unincorporated area of the county; and
- (b) for an agency created by a city or town, the boundaries of the city or town.

(2) "Assessment property owner" or "assessment owner of property" means the owner of real property as shown on the assessment roll of the county in which the property is located, equalized as of the previous November 1.

(3) "Assessment roll" has the meaning as defined in Section **59-2-102**.

(4) "Base taxable value" means the taxable value of the property within a project area from which tax increment will be collected, as shown upon the assessment roll last equalized before:

- (a) for a pre-July 1, 1993 project area plan, the effective date of the project area plan; or
- (b) for a post-June 30, 1993 project area plan:
 - (i) the date of the taxing entity committee's approval of the first project area budget; or
 - (ii) if no taxing entity committee approval is required for the project area budget, the later of:
 - (A) the date the project area plan is adopted by the community legislative body; and
 - (B) the date the agency adopts the first project area budget.

(5) "Blight" or "blighted" means the condition of an area that meets the requirements of Subsection **17B-4-604(1)**.

(6) "Blight hearing" means a public hearing under Subsection **17B-4-601(1)(c)** and Section **17B-4-603** regarding the existence or nonexistence of blight within the proposed redevelopment project area.

(7) "Blight study" means a study to determine the existence or nonexistence of blight within a survey area as provided in Section **17B-4-602**.

(8) "Board" means the governing body of an agency, as provided in Section **17B-4-203**.

(9) "Budget hearing" means the public hearing on a draft project area budget required under

Subsection **17B-4-501(2)(e)**.

(10) "Community" means a county, city, or town.

(11) "Economic development" means to promote the creation or retention of public or private jobs within the state through:

(a) planning, design, development, construction, rehabilitation, business relocation, or any combination of these, within part or all of a project area; and

(b) the provision of office, industrial, manufacturing, warehousing, distribution, parking, public, or other facilities, or other improvements that benefit the state or a community.

(12) "Education housing development" means the provision of high density housing within a project area that is adjacent to a public or private institution of higher education.

(13) "Loan fund board" means the Olene Walker Housing Loan Fund Board, established under Title 9, Chapter 4, Part 7, Olene Walker Housing Loan Fund.

(14) "Plan hearing" means the public hearing on a draft project area plan required under Subsection **17B-4-402(1)(e)**.

(15) "Post-June 30, 1993 project area plan" means a redevelopment, economic development, or education housing development project area plan adopted on or after July 1, 1993, whether or not amended subsequent to its adoption.

(16) "Pre-July 1, 1993 project area plan" means a redevelopment project area plan adopted before July 1, 1993, whether or not amended subsequent to its adoption.

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

(a) not owned by the United States or any agency of the federal government, a public entity, or any other governmental entity; and

(b) not dedicated to public use.

(18) "Project area" means the geographic area described in a project area plan or draft project area plan where the redevelopment, economic development, or education housing development set forth in the project area plan or draft project area plan takes place or is proposed to take place.

(19) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a redevelopment, economic development, or education housing development project area that includes:

(a) the base taxable value of property in the project area;

(b) the projected tax increment expected to be generated within the project area;

(c) the amount of tax increment expected to be shared with other taxing entities;

(d) the amount of tax increment expected to be used to implement the project area plan, including the estimated amount of tax increment to be used for land acquisition, public improvements, infrastructure improvements, and loans, grants, or other incentives to private and public entities;

(e) the tax increment expected to be used to cover the cost of administering the project area plan;

(f) if the area from which tax increment is to be collected is less than the entire project area, a legal description of the portion of the project area from which tax increment will be collected; and

(g) for property that the agency owns and expects to sell, the expected total cost of the property to the agency and the expected selling price.

(20) "Project area plan" means a written plan under Part 4, Project Area Plan, that, after its effective date, guides and controls the redevelopment, economic development, or education

housing development activities within the project area.

(21) "Property tax" includes privilege tax and each levy on an ad valorem basis on tangible or intangible personal or real property.

(22) "Public entity" means:

(a) the state, including any of its departments or agencies; or

(b) a political subdivision of the state, including a county, city, town, school district, special district, local district, or interlocal cooperation entity.

(23) "Public input hearing" means the public hearing required under Subsection **17B-4-402(1)(h)(ii)** regarding a proposed redevelopment project.

(24) "Record property owner" or "record owner of property" means the owner of real property as shown on the records of the recorder of the county in which the property is located and includes a purchaser under a real estate contract if the contract is recorded in the office of the recorder of the county in which the property is located or the purchaser gives written notice of the

real estate contract to the agency.

(25) "Redevelopment" means the development activities under a project area plan within a redevelopment project area, including:

(a) planning, design, development, demolition, clearance, construction, rehabilitation, or any combination of these, of part or all of a project area;

(b) the provision of residential, commercial, industrial, public, or other structures or spaces, including recreational and other facilities incidental or appurtenant to them;

(c) altering, improving, modernizing, demolishing, reconstructing, or rehabilitating, or any combination of these, existing structures in a project area;

(d) providing open space, including streets and other public grounds and space around buildings;

(e) providing public or private buildings, infrastructure, structures, and improvements; and

(f) providing improvements of public or private recreation areas and other public grounds.

(26) "Superfund site":

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

(b) includes an area formerly included in the National Priorities List, as described in Subsection (26)(a), but removed from the list following remediation that leaves on site the waste that caused the area to be included in the National Priorities List.

(27) "Survey area" means an area designated by a survey area resolution for study to determine whether one or more redevelopment projects within the area are feasible.

(28) "Survey area resolution" means a resolution adopted by the agency board under Subsection **17B-4-401(1)(a)** designating a survey area.

(29) (a) "Tax increment" means, except as provided in Subsection (29)(b), the difference between:

(i) the amount of property tax revenues generated each tax year by all taxing entities from the area within a project area designated in the project area plan as the area from which tax increment is to be collected, using the current assessed value of the property; and

(ii) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property.

(b) "Tax increment" does not include taxes levied and collected under Section **59-2-906.1** on

or after January 1, 1994 upon the taxable property in the project area unless:

(i) the project area plan was adopted before May 4, 1993, whether or not the project area plan was subsequently amended; and

(ii) the taxes were pledged to support bond indebtedness or other contractual obligations of the agency.

(30) "Taxing entity" means a public entity that levies a tax on property within a project area or proposed project area.

(31) "Taxing entity committee" means a committee representing the interests of taxing entities, created as provided in Section **17B-4-1002**.

17B-4-103. Public entities may assist with redevelopment, economic development, or education housing development project.

(1) In order to assist and cooperate in the planning, undertaking, construction, or operation of a redevelopment, economic development, or education housing development project located within the area in which it is authorized to act, a public entity may:

(a) (i) cause to be furnished adjacent to or in connection with a redevelopment, economic development, or education housing development project:

(A) parks, playgrounds, or other recreational facilities;

(B) community, educational, water, sewer, or drainage facilities; or

(C) any other works which the public entity is otherwise empowered to undertake;

(ii) furnish, dedicate, close, vacate, pave, install, grade, regrade, plan, or replan streets, roads, roadways, alleys, sidewalks, or other places over which it has authority;

(iii) plan or replan, zone or rezone any part of a project area and make any legal exceptions from building regulations and ordinances;

(iv) purchase or legally invest in any of the bonds of an agency and exercise all of the rights of any holder of the bonds;

(v) enter into an agreement with another public entity concerning action to be taken pursuant to any of the powers granted in this chapter; and

(vi) do any and all things necessary to aid or cooperate in the planning or carrying out of a redevelopment, economic development, or education housing development project; and

(b) after 15 days public notice:

(i) (A) purchase or otherwise acquire property or lease property from an agency; or

(B) sell, grant, convey, or otherwise dispose of the public entity's property or lease the public entity's property to an agency;

(ii) in connection with the project area plan, become obligated to the extent authorized and funds have been made available to make required improvements or construct required structures; and

(iii) lend, grant, or contribute funds to an agency for a redevelopment, economic development, or education housing development project.

(2) Notwithstanding any law to the contrary, an agreement under Subsection (1)(a)(v) may extend over any period.

17B-4-104. Agency funds to be accounted for separately from community funds.

Agency funds shall be accounted for separately from the funds of the community that created the agency.

17B-4-105. Limitations on applicability of chapter -- Amendment of previously adopted project area plan.

- (1) Nothing in this chapter may be construed to:
 - (a) impose a requirement or obligation on an agency, with respect to a project area plan adopted or an agency action taken, that was not imposed by the law in effect at the time the project area plan was adopted or the action taken;
 - (b) prohibit an agency from taking an action that:
 - (i) was allowed by the law in effect immediately before an applicable amendment to this chapter;
 - (ii) is permitted or required under the project area plan adopted before the amendment; and
 - (iii) is not explicitly prohibited under this chapter;
 - (c) revive any right to challenge any action of the agency that had already expired; or
 - (d) require a project area plan to contain a provision that was not required by the law in effect at the time the project area plan was adopted.
- (2) (a) A project area plan adopted before an amendment to this chapter becomes effective may be amended as provided in this chapter.
 - (b) Unless explicitly prohibited by this chapter, an amendment under Subsection (2)(a) may include a provision that is allowed under this chapter but that was not required or allowed by the law in effect before the applicable amendment.

17B-4-201. Creation of agency -- Notice to lieutenant governor.

- (1) Subject to Subsection (2), a community may, by ordinance adopted by its legislative body, create an agency.
- (2) (a) Within ten days after adopting an ordinance under Subsection (1), the community legislative body shall file with the lieutenant governor a notice of the adoption of the ordinance, with a copy of the ordinance.
 - (b) Upon the lieutenant governor's issuance of the certificate of creation under Section **67-1a-6.5**, the agency is created and incorporated.

17B-4-202. Agency powers.

- (1) An agency may:
 - (a) sue and be sued;
 - (b) enter into contracts generally;
 - (c) buy, obtain an option upon, or otherwise acquire any interest in real or personal property;
 - (d) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property;
 - (e) enter into a lease agreement on real or personal property, either as lessee or lessor;
 - (f) provide for redevelopment, economic development, and education housing development as provided in this chapter;
 - (g) receive tax increment as provided in this chapter;
 - (h) encourage the continued use of existing buildings in the project area;
 - (i) if disposing of or leasing land, retain controls or establish restrictions and covenants running with the land consistent with the project area plan;
 - (j) accept financial or other assistance from any public or private source for the agency's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;

(k) borrow money or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of such loan or assistance; and

(l) issue bonds to finance the undertaking of any redevelopment, economic development, or education housing development or for any of the agency's other purposes, including:

(i) reimbursing an advance made by the agency or by a public entity or the federal government to the agency;

(ii) refunding bonds to pay or retire bonds previously issued by the agency; and

(iii) refunding bonds to pay or retire bonds previously issued by the community that created the agency for expenses associated with a redevelopment, economic development, or education housing development project; and

(m) transact other business and exercise all other powers provided for in this chapter.

(2) The establishment of controls or restrictions and covenants under Subsection (1)(i) is a public purpose.

17B-4-204. Redevelopment, economic development, or education housing development by an adjoining agency -- Requirements.

(1) An agency may, by resolution of its board, authorize another agency to conduct redevelopment, economic development, or education housing development activities in a project area within the authorizing agency's boundaries if the project area is contiguous to the boundaries of the other agency.

(2) If an agency board adopts a resolution under Subsection (1) authorizing another agency to undertake redevelopment, economic development, or education housing development activities in the authorizing agency's project area:

(a) the other agency may act in all respects as if the project area were within its own boundaries;

(b) the board of the other agency has all the rights, powers, and privileges with respect to the project area as if it were within its own boundaries; and

(c) the other agency may be paid tax increment funds to the same extent as if the project area were within its own boundaries.

(3) Each project area plan approved by the other agency for the project area that is the subject of a resolution under Subsection (1) shall be:

(a) reviewed by the planning commission of the community in which the project area is located; and

(b) adopted by ordinance of the legislative body of the community in which the project area is located.

17B-4-205. Change of project area from one community to another.

(1) For purposes of this section:

(a) "New agency" means the agency created by the new community.

(b) "New community" means the community in which the relocated project area is located after the change in community boundaries takes place.

(c) "Original agency" means the agency created by the original community.

(d) "Original community" means the community that adopted the project area plan that created the project area that has been relocated.

(e) "Relocated" means that a project area under a project area plan adopted by the original

community has ceased to be located within that community and has become part of a new community because of a change in community boundaries through:

- (i) a county or municipal annexation;
- (ii) the creation of a new county;
- (iii) a municipal incorporation, consolidation, dissolution, or boundary adjustment; or
- (iv) any other action resulting in a change in community boundaries.

(2) If a project area under a project area plan adopted by a community becomes relocated, the project area shall, for purposes of this chapter, be considered to remain in the original community until:

- (a) the new community has created an agency;
- (b) the original agency has transferred or assigned to the new agency the original agency's real property, rights, indebtedness, obligations, tax increment, and other assets and liabilities related to the relocated project area; and
- (c) the new agency by resolution approves the original agency's project area plan as the project area plan of the new agency; and
- (d) the new community by ordinance adopts the project area plan that was approved by the new agency.

17B-4-206. Acquisition of property of an agency board member or officer -- Use of eminent domain.

(1) An agency may not acquire property or an interest in property from an agency board member or officer unless:

- (a) the board member or officer consents; and
- (b) the agency uses eminent domain.

(2) An agency may use eminent domain to acquire any interest in property that is owned by an agency board member or officer and located within a redevelopment, economic development, or education housing development project area.

17B-4-301. Agency property exempt from taxation -- Exception.

(1) Agency property acquired or held for purposes of this chapter is declared to be public property used for essential public and governmental purposes and, subject to Subsection (2), is exempt from all taxes of a public entity.

(2) The exemption in Subsection (1) does not apply to property that the agency leases to a lessee that is not entitled to a tax exemption with respect to the property.

17B-4-302. Agency property exempt from levy and execution sale -- Judgment against community or agency.

(1) (a) All agency property, including funds the agency owns or holds for purposes of this chapter, are exempt from levy and execution sale, and no execution or judicial process may issue against agency property. A judgment against an agency may not be a charge or lien upon agency property.

(b) Subsection (1)(a) does not apply to or limit the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by an agency on its funds or revenues.

(2) A judgment against the community that created the agency may not be a charge or lien upon agency property.

(3) A judgment against an agency may not be a charge or lien upon property of the community that created the agency.

17B-4-303. Summary of sale or other disposition of agency property -- Publication of summary.

(1) Upon the agency's sale, conveyance, grant, or other disposition of real property, the agency shall prepare a summary of the material provisions of the disposition.

(2) Each summary under Subsection (1) shall be a matter of public record.

(3) The agency shall publish each summary under Subsection (1) at least once in a newspaper of general circulation in the agency's boundaries no later than one month after the disposition is concluded.

17B-4-401. Resolution designating survey area or authorizing the preparation of a draft project area plan -- Request to adopt resolution.

(1) An agency board may begin the process of adopting a project area plan by adopting a resolution that:

(a) for a proposed redevelopment project area plan:

(i) designates an area located within the agency's boundaries as a survey area;

(ii) contains a statement that the survey area requires study to determine whether:

(A) one or more redevelopment projects within the survey area are feasible; and

(B) blight exists within the survey area; and

(iii) contains a description or map of the boundaries of the survey area; or

(b) for a proposed economic development or education housing development project area plan, authorizes the preparation of a draft project area plan.

(2) (a) Any person or any group, association, corporation, or other entity may submit a written request to the board to adopt a resolution under Subsection (1).

(b) A request under Subsection (2)(a) may include plans showing the redevelopment, economic development, or education housing development proposed for an area within the agency's boundaries.

(c) The board may, in its sole discretion, grant or deny a request under Subsection (2)(a).

17B-4-402. Process for adopting project area plan -- Prerequisites -- Restrictions.

(1) In order to adopt a project area plan, after adopting a resolution under Subsection **17B-4-401**(1) the agency shall:

(a) prepare a draft of a project area plan and conduct any examination, investigation, and negotiation regarding the project area plan that the agency considers appropriate;

(b) request input on the draft project area plan from the planning commission of the community in which the proposed project area is located;

(c) make the draft project area plan available to the public at the agency's offices during normal business hours;

(d) provide notice of the plan hearing as provided in Sections **17B-4-702** and **17B-4-704**;

(e) hold a public hearing on the draft project area plan and, at that public hearing:

(i) allow public comment on:

(A) the draft project area plan; and

(B) whether the draft project area plan should be revised, approved, or rejected; and

(ii) receive all written and hear all oral objections to the draft project area plan;

(f) before holding the plan hearing, provide an opportunity for the State Board of Education and each taxing entity that levies a tax on property within the proposed project area to consult with the agency regarding the draft project area plan;

(g) if applicable, hold the election required under Subsection **17B-4-406(3)**;

(h) for a redevelopment project area plan:

(i) comply with the requirements of Part 6, Blight Determination in Redevelopment Project Areas;

(ii) before providing notice of the plan hearing, hold at least one public hearing to:

(A) inform the public about each area being considered for a redevelopment project area; and

(B) allow public input into agency deliberations on proposing each redevelopment project area;

(iii) select one or more project areas comprising part or all of the survey area; and

(iv) before sending the first notice to assessment owners of property for a public input hearing, blight hearing, or combined public input and blight hearing, prepare and adopt guidelines setting forth and governing the reasonable opportunities of record property owners and tenants to participate in the redevelopment;

(i) after holding the plan hearing, at the same meeting or at a subsequent meeting consider:

(i) the oral and written objections to the draft project area plan and evidence and testimony for or against adoption of the draft project area plan; and

(ii) whether to revise, approve, or reject the draft project area plan;

(j) subject to Subsection (5), approve the draft project area plan, with or without revisions, as the project area plan by a resolution that complies with Section **17B-4-407**; and

(k) submit the project area plan to the community legislative body for adoption.

(2) An agency may not propose a project area plan under Subsection (1) unless the community in which the proposed project area is located:

(a) has a planning commission; and

(b) has adopted a general plan under:

(i) if the community is a city or town, Title 10, Chapter 9a, Part 4, General Plan; or

(ii) if the community is a county, Title 17, Chapter 27a, Part 4, General Plan.

(3) (a) Subject to Subsection (3)(b), an agency board may not approve a project area plan more than one year after:

(i) for a redevelopment project area plan, adoption of a resolution making a finding of blight under Subsection **17B-4-601(1)(d)(ii)**; or

(ii) for an economic development or education housing development project area plan, the date of the plan hearing.

(b) If a project area plan is submitted to an election under Subsection **17B-4-406(3)**, the time between the plan hearing and the date of the election does not count for purposes of calculating the year period under Subsection (3)(a).

(4) (a) Except as provided in Subsection (4)(b), a draft project area plan may not be modified to add real property to the proposed project area unless the board holds a plan hearing to consider the addition and gives notice of the plan hearing as required under Sections **17B-4-702** and **17B-4-704**.

(b) The notice and hearing requirements under Subsection (4)(a) do not apply to a draft project area plan being modified to add real property to the proposed project area if:

(i) the property is contiguous to the property already included in the proposed project area

under the draft project area plan;

(ii) the record owner of the property consents to adding the real property to the proposed project area; and

(iii) for a redevelopment project area, the property is located within the survey area.

(5) From July 1, 2005 through June 30, 2006, an agency may not adopt a project area plan for a redevelopment project requiring a finding of blight unless:

(a) before February 15, 2005, the agency has authorized a blight study; and

(b) the blight study authorized before February 15, 2005, is completed before July 1, 2005.

17B-4-403. Project area plan requirements.

(1) Each project area plan and draft project area plan shall:

(a) describe the boundaries of the project area;

(b) contain a general statement of the land uses, layout of principal streets, population densities, and building intensities of the project area and how they will be affected by the redevelopment, economic development, or education housing development;

(c) state the standards that will guide the redevelopment, economic development, or education housing development;

(d) show how the purposes of this chapter will be attained by the redevelopment, economic development, or education housing development;

(e) be consistent with the general plan of the community in which the project area is located and show that the redevelopment, economic development, or education housing development will conform to the community's general plan;

(f) if the agency board made a finding of blight under Subsection **17B-4-601(1)(d)(ii)**, describe how the redevelopment will reduce or eliminate blight in the project area;

(g) if the project area plan is for economic development, describe how the economic development will create additional jobs;

(h) if the project area plan is for education housing development, describe how the education housing development will meet the needs of the community in which the project area is located;

(i) describe any specific project or projects that are the object of the proposed redevelopment, economic development, or education housing development;

(j) identify how private developers, if any, will be selected to undertake the redevelopment, economic development, or education housing development and identify each private developer currently involved in the redevelopment, economic development, or education housing development process;

(k) contain a time limit of no more than three years after adoption of the project area plan for the agency to commence implementation of the project area plan, unless the project area plan is adopted again as if it were an amended project area plan under Section **17B-4-411**;

(l) if the project area plan authorizes the use of eminent domain, contain a time limit of no more than five years after the effective date of the project area plan for the agency to commence acquisition of property through the use of eminent domain;

(m) if the project area plan provides for tax increment to be paid to the agency:

(i) contain a time limit of no more than 25 years for tax increment to be paid to the agency from the project area unless the taxing entity committee consents to a longer period; and

(ii) contain a provision that the project area may not exceed 100 acres of private real property unless:

(A) the agency obtains the consent of the taxing entity committee; or

- (B) the project area is a superfund site;
 - (n) state the reasons for the selection of the project area;
 - (o) describe the physical, social, and economic conditions existing in the project area;
 - (p) provide a financial analysis describing the proposed method of financing the proposed redevelopment, economic development, or education housing development;
 - (q) describe any tax incentives offered private entities for facilities located in the project area;
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(r) contain the report and state any recommendations of the community's planning commission;

(s) include an analysis, as provided in Subsection (2), of whether adoption of the project area plan is:

(i) for a redevelopment project area plan, necessary and appropriate to reduce or eliminate blight; or

(ii) for an economic development or education housing development project area plan, beneficial under a benefit analysis;

(t) if any of the existing buildings or uses in the project area are included in or eligible for inclusion in the National Register of Historic Places or the State Register, state that the agency shall comply with Subsection **9-8-404(1)** as though the agency were a state agency; and

(u) include other information that the agency determines to be necessary or advisable.

(2) Each analysis under Subsection (1)(s)(ii) shall consider:

(a) the benefit of any financial assistance or other public subsidy proposed to be provided by the agency, including:

(i) an evaluation of the reasonableness of the costs of economic development or education housing development;

(ii) efforts the agency has made or will make to maximize private investment;

(iii) the rationale for use of tax increment, including an analysis of whether the proposed development might reasonably be expected to occur in the foreseeable future solely through private investment; and

(iv) an estimate of the total amount of tax increment that will be expended in undertaking economic development or education housing development and the length of time for which it will be expended; and

(b) the anticipated public benefit to be derived from the economic development or education housing development, including:

(i) the beneficial influences upon the tax base of the community;

(ii) the associated business and economic activity likely to be stimulated; and

(iii) in the case of economic development, the number of jobs or employment anticipated to be generated or preserved.

17B-4-405. Existing and historic buildings and uses.

If any of the existing buildings or uses in a project area are included in or eligible for inclusion in the National Register of Historic Places or the State Register, the agency shall comply with Subsection **9-8-404(1)** as though the agency were a state agency.

17B-4-406. Objections to project area plan -- Owners' alternative project area plan -- Election if 40% of property owners object.

(1) At any time before the plan hearing, any person may file with the agency a written

statement of objections to the draft project area plan.

(2) If the record owners of property of a majority of the private real property included within the proposed project area file a written petition before or at the plan hearing, proposing an alternative project area plan, the agency shall consider that proposed plan in conjunction with the project area plan proposed by the agency.

(3) (a) If the record property owners of at least 40% of the private land area within the proposed project area object in writing to the draft project area plan before or at the plan hearing and do not withdraw their objections, an agency may not approve the project area plan until approved by voters within the boundaries of the agency in which the proposed project area is located at an election as provided in Subsection (3)(b).

(b) (i) Except as provided in this section, each election required under Subsection (3)(a) shall comply with Title 20A, Election Code.

(ii) An election under Subsection (3)(a) may be held on the same day and with the same election officials as an election held by the community in which the proposed project area is located.

(iii) If a majority of those voting on the proposed project area plan vote in favor of it, the project area plan shall be considered approved and the agency shall confirm the approval by resolution.

(4) If the record property owners of 2/3 of the private land area within the proposed project area object in writing to the draft project area plan before or at the plan hearing and do not withdraw their objections, the project area plan may not be adopted and the agency may not reconsider the project area plan for three years.

17B-4-407. Board resolution approving project area plan -- Requirements -- Additional requirements for redevelopment project area plan.

(1) Each board resolution approving a draft redevelopment, economic development, or education housing development project area plan as the project area plan under Subsection **17B-4-402(1)(j)** shall contain:

(a) a legal description of the boundaries of the project area that is the subject of the project area plan;

(b) the agency's purposes and intent with respect to the project area;

(c) the project area plan incorporated by reference; and

(d) the board findings and determinations that:

(i) there is a need to effectuate a public purpose;

(ii) there is a public benefit under the analysis described in Subsections **17B-4-403(1)(t)** and (2);

(iii) it is economically sound and feasible to adopt and carry out the project area plan;

(iv) the project area plan conforms to the community's general plan; and

(v) carrying out the project area plan will promote the public peace, health, safety, and welfare of the community in which the project area is located.

(2) (a) As used in this Subsection (2), "comparable dwellings" means residential housing facilities that are:

(i) within the project area or in other areas not generally less desirable in regard to public utilities and public and commercial facilities;

(ii) at rents or prices within the financial means of the families and persons displaced from the project area; and

(iii) decent, safe, and sanitary and equal in number and available to displaced families and persons and reasonably accessible to their places of employment.

(b) In addition to the requirements under Subsection (1), each board resolution approving a redevelopment project area plan shall:

(i) state that the board previously made a finding of blight within the project area and the date of the board's finding of blight; and

(ii) contain the board's findings and determinations that, if the project area plan may result in the temporary or permanent displacement of any residential occupants in the project area:

(A) the agency has a feasible method or plan for the relocation of families and persons displaced from the project area;

(B) comparable dwellings exist or will be provided to the families and persons displaced by the project area plan; and

(C) the board is satisfied that permanent housing facilities will be available within three years from the time occupants of the project area are displaced and, pending the development of these housing facilities, there will be available to the displaced occupants adequate temporary housing facilities at rents comparable to those in the community at the time of their displacement.

17B-4-408. Plan to be adopted by community legislative body.

(1) A project area plan approved by board resolution under Section **17B-4-407** may not take effect until it has been adopted by ordinance of the legislative body of the community that created the agency and notice under Section **17B-4-409** is provided.

(2) Each ordinance under Subsection (1) shall:

(a) be adopted by the community legislative body after the board's approval of a resolution under Section **17B-4-407**; and

(b) designate the approved project area plan as the official redevelopment, economic development, or education housing development plan of the project area.

17B-4-409. Notice of project area plan adoption -- Effective date of plan -- Contesting the formation of the plan.

(1) (a) Upon the community legislative body's adoption of a project area plan, the legislative body shall provide notice as provided in Subsection (1)(b) by:

(i) publishing or causing to be published a notice in a newspaper of general circulation within the agency's boundaries; or

(ii) if there is no newspaper of general circulation within the agency's boundaries, causing a notice to be posted in at least three public places within the agency's boundaries.

(b) Each notice under Subsection (1)(a) shall:

(i) set forth the community legislative body's ordinance adopting the project area plan or a summary of the ordinance; and

(ii) include a statement that the project area plan is available for general public inspection and the hours for inspection.

(2) The project area plan shall become effective on the date of:

(a) if notice was published under Subsection (1)(a), publication of the notice; or

(b) if notice was posted under Subsection (1)(a), posting of the notice.

(3) (a) (i) For a period of 60 days after the effective date of the project area plan under Subsection (2), any person in interest may, except as provided in Subsection (3)(a)(ii), contest the project area plan or the procedure used to adopt the project area plan if the plan or procedure

fails to comply with applicable statutory requirements.

(ii) Notwithstanding Subsection (3)(a)(i), a challenge to a finding of blight may be made only under Section **17B-4-605**.

(b) After the 60-day period under Subsection (3)(a)(i) expires, no person may contest the project area plan or procedure used to adopt the project area plan for any cause.

(4) (a) Except as provided in Subsection (4)(b), upon adoption of the project area plan by the community's legislative body, the agency may carry out the project area plan.

(b) An agency may not commence implementation of a project area plan more than three years after the community legislative body adopts the plan, unless the plan is readopted as if it were an amended project area plan under Section **17B-4-411**.

(5) Each agency shall make the adopted project area plan available to the general public at its offices during normal business hours.

17B-4-410. Agency required to transmit and record documents after adoption of project area plan.

Within 30 days after the community legislative body adopts, under Section **17B-4-408**, a project area plan, the agency shall:

(1) record with the recorder of the county in which the project area is located a document containing:

- (a) a description of the land within the project area;
- (b) a statement that the project area plan for the project area has been adopted; and
- (c) the date of adoption;

(2) transmit a copy of the description of the land within the project area and an accurate map or plat indicating the boundaries of the project area to the Automated Geographic Reference Center created under Section **63F-1-506**; and

(3) for a project area plan that provides for the payment of tax increment to the agency, transmit a copy of the description of the land within the project area, a copy of the community legislative body ordinance adopting the project area plan, and a map or plat indicating the boundaries of the project area to:

- (a) the auditor, recorder, attorney, surveyor, and assessor of each county in which any part of the project area is located;
- (b) the officer or officers performing the function of auditor or assessor for each taxing entity that does not use the county assessment roll or collect its taxes through the county;
- (c) the legislative body or governing board of each taxing entity;
- (d) the State Tax Commission; and
- (e) the State Board of Education.

17B-4-411. Amending a project area plan.

(1) An adopted project area plan may be amended as provided in this section.

(2) Except as provided in Subsection (4)(a), a project area plan may not be amended after March 21, 2005, to enlarge or add to a project area.

(3) An agency board may adopt a resolution approving an amendment to an adopted project area plan after:

(a) the agency gives notice, as provided in Section **17B-4-702**, of the proposed amendment and of the public hearing required by Subsection (3)(b);

(b) the agency board holds a public hearing on the proposed amendment that meets the

requirements of a plan hearing;

(c) the agency obtains the taxing entity committee's consent to the amendment, if the amendment proposes to permit the agency to receive a greater percentage of tax increment than allowed under the adopted project area plan; and

(d) the agency obtains the consent of the legislative body or governing board of each taxing entity affected, if the amendment proposes to permit the agency to receive, from less than all taxing entities, a greater percentage of tax increment than allowed under the adopted project area plan.

(4) (a) An adopted project area plan may be amended without complying with the notice and public hearing requirements of Subsections (3)(a) and (b) and without obtaining taxing entity committee approval under Subsection (3)(c) if the amendment:

(i) makes a minor adjustment in the legal description of a project area boundary requested by a county assessor or county auditor to avoid inconsistent property boundary lines; or

(ii) subject to Subsection (4)(b), removes a parcel of real property from a project area because the agency determines that:

(A) the parcel is no longer blighted; or

(B) inclusion of the parcel is no longer necessary or desirable to the project area; and

(b) An amendment removing a parcel of real property from a project area under Subsection (4)(a)(ii) may not be made without the consent of the record property owner of the parcel being removed.

(5) (a) An amendment approved by board resolution under this section may not take effect until adopted by ordinance of the legislative body of the community in which the project area that is the subject of the project area plan being amended is located.

(b) Upon a community legislative body passing an ordinance adopting an amendment to a project area plan, the agency whose project area plan was amended shall comply with the requirements of Section **17B-4-410** to the same extent as if the amendment were a project area plan.

17B-4-501. Project area budget -- Requirements for adopting -- Contesting the budget or procedure -- Time limit.

(1) If an agency anticipates funding all or a portion of a post-June 30, 1993 project area plan with tax increment, the agency shall, subject to Section **17B-4-503**, adopt a project area budget as provided in this part.

(2) To adopt a project area budget, the agency shall:

(a) prepare a draft of a project area budget;

(b) make a copy of the draft project area budget available to the public at the agency's offices during normal business hours;

(c) provide notice of the budget hearing as required by Part 7, Notice Requirements;

(d) at least seven days before the budget hearing:

(i) publish a display advertisement that complies with Section **17B-4-502** in a newspaper that is:

(A) of general circulation within the county in which the proposed project area is located; and

(B) to the extent practicable, of general interest and readership and not of limited subject matter; or

(ii) if there is no newspaper of general circulation within the county in which the proposed project area is located, post a notice that complies with Section **17B-4-502** in at least three

conspicuous places within the agency's boundaries;

(e) hold a public hearing on the draft project area budget and, at that public hearing, allow public comment on:

(i) the draft project area budget; and

(ii) whether the draft project area budget should be revised, adopted, or rejected;

(f) (i) if required under Subsection **17B-4-505(1)**, obtain the approval of the taxing entity committee on the draft project area budget or a revised version of the draft project area budget; or

(ii) if applicable, comply with the requirements of Subsection **17B-4-505(2)**; and

(g) after the budget hearing, hold a board meeting in the same meeting as the public hearing or in a subsequent meeting to:

(i) consider comments made and information presented at the public hearing relating to the draft project area budget; and

(ii) adopt by resolution the draft project area budget, with any revisions, as the project area budget.

(3) (a) For a period of 60 days after the agency's adoption of the project area budget under Subsection (2)(g), any person in interest may contest the project area budget or the procedure used to adopt the project area budget if the budget or procedure fails to comply with applicable statutory requirements.

(b) After the 60-day period under Subsection (3)(a) expires, no person may contest the project area budget or procedure used to adopt the project area budget for any cause.

17B-4-502. Display advertisement requirements.

(1) Each display advertisement published under Subsection **17B-4-501(2)(d)** shall appear in a portion of the newspaper other than where legal notices and classified advertisements appear.

(2) Each display advertisement published and notice posted under Subsection **17B-4-501(2)(d)** shall contain:

(a) the following statement:

"NOTICE OF BUDGET HEARING FOR (NAME OF PROJECT AREA)

The (name of agency) has requested \$_____ in property tax revenues that will be generated by development within the (name of project area) to fund a portion of project costs within the (name of project area). These property tax revenues will be used for the following: (list major budget categories and amounts). These property taxes will be taxes levied by the following governmental entities, and, assuming current tax rates, the taxes paid to the agency for this project area from each taxing entity will be as follows: (list each taxing entity levying taxes and the amount of total taxes that would be paid from each taxing entity). All of the property taxes to be paid to the agency for the development in the project area are taxes that will be generated only if the project area is developed.

All concerned citizens are invited to attend the project area budget hearing scheduled for (date, time, and place of hearing). A copy of the (name of project area) project area budget is available at the offices of (name of agency and office address)."; and

(b) other information that the agency considers appropriate.

17B-4-503. Combined incremental value -- Restriction against adopting project area budget -- Taxing entity committee may waive restriction.

(1) For purposes of this section:

(a) "Adjusted tax increment" means:

(i) for tax increment under a pre-July 1, 1993 project area plan, tax increment under Section **17B-4-1003**, excluding tax increment under Subsection **17B-4-1003(3)**; and

(ii) for tax increment under a post-June 30, 1993 project area plan, tax increment under Section **17B-4-1004**, excluding tax increment under Subsection **17B-4-1004(3)**.

(b) "Combined incremental value" means the combined total of all incremental values from all project areas, except a military installation project area, within the agency's boundaries under adopted project area plans and adopted project area budgets at the time that a project area budget for a new project area is being considered.

(c) "Incremental value" means a figure derived by multiplying the marginal value of the property located within a project area on which tax increment is collected by a number that represents the percentage of adjusted tax increment from that project area that is paid to the agency.

(d) "Marginal value" means the difference between actual taxable value and base taxable value.

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

(f) "Taxable value" means the value of property as shown on the last equalized assessment roll as certified by the county assessor.

(2) (a) Except as provided in Subsection (2)(b), an agency may not adopt a project area budget if, at the time the project area budget is being considered, the combined incremental value for the agency exceeds 10% of the total taxable value of property within the agency's boundaries in the year that the project area budget is being considered.

(b) A taxing entity committee may waive the restrictions imposed by Subsection (2)(a).

17B-4-504. Part of tax increment funds to be used for housing -- Waiver of requirement.

(1) (a) Except as provided in Subsection (1)(b), each project area budget adopted on or after May 1, 2000 that provides for more than \$100,000 of annual tax increment to be paid to the agency shall allocate at least 20% of the tax increment for housing as provided in Section **17B-4-1010**.

(b) The 20% requirement of Subsection (1)(a) may be waived:

(i) in part or whole by the mutual consent of the loan fund board and the taxing entity committee if they determine that 20% of tax increment is more than is needed to address the community's need for income targeted housing, as defined in Section **17B-4-1010**; or

(ii) in fifth and sixth class counties, by the taxing entity committee for economic development project area budgets adopted on or after May 1, 2002, if the economic development project area consists of an area without housing units.

(2) A project area budget not required under Subsection (1)(a) to allocate tax increment for housing may allocate 20% of tax increment payable to the agency over the life of the project area for housing as provided in Section **17B-4-1010** if the project area budget is under a project area plan that is adopted on or after July 1, 1998.

17B-4-505. Consent of taxing entity committee.

(1) (a) Except as provided in Subsection (1)(b) and subject to Subsection (2), each agency shall obtain the consent of the taxing entity committee for each project area budget under a post-

June 30, 1993 project area plan before the agency may collect any tax increment from the project area.

(b) For a project area budget adopted from July 1, 1998 through May 1, 2000 that allocates 20% or more of the tax increment for housing as provided in Section **17B-4-1010**, an agency:

(i) need not obtain the consent of the taxing entity committee for the project area budget; and

(ii) may not collect any tax increment from all or part of the project area until after:

(A) the loan fund board has certified the project area budget as complying with the requirements of Section **17B-4-1010**; and

(B) the agency board has approved and adopted the project area budget by a two-thirds vote.

(2) (a) Before a taxing entity committee may consent to a project area budget adopted on or after May 1, 2000 that is required under Subsection **17B-4-504(1)(a)** to allocate 20% of tax increment for housing, the agency shall:

(i) adopt a housing plan showing the uses for the housing funds; and

(ii) provide a copy of the housing plan to the taxing entity committee and the loan fund board.

(b) If an agency amends a housing plan prepared under Subsection (2)(a), the agency shall provide a copy of the amendment to the taxing entity committee and the loan fund board.

17B-4-506. Filing a copy of the project area budget.

Each agency adopting a project area budget shall:

(1) within 30 days after adopting the project area budget, file a copy of the project area budget with the auditor of the county in which the project area is located, the State Tax Commission, the state auditor, the State Board of Education, and each taxing entity affected by the agency's collection of tax increment under the project area budget; and

(2) if the project area budget allocates tax increment for housing under Section **17B-4-1010**, file a copy of the project area budget with the loan fund board.

17B-4-507. Amending a project area budget.

(1) Subject to Subsection (5), an agency may by resolution amend a project area budget as provided in this section.

(2) To amend an adopted project area budget, the agency shall:

(a) advertise and hold one public hearing on the proposed amendment as provided in Subsection (3);

(b) obtain the approval of the taxing entity committee if the agency was required under Section **17B-4-505** to obtain the consent of the taxing entity committee for the project area budget as originally adopted; and

(c) adopt a resolution amending the project area budget.

(3) The public hearing required under Subsection (2)(a) shall be conducted according to the procedures and requirements of Sections **17B-4-501** and **17B-4-502**, except that if the amended project area budget proposes that the agency be paid a greater proportion of tax increment from a project area than was to be paid under the previous project area budget, the advertisement shall state the percentage paid under the previous project area budget and the percentage proposed under the amended project area budget.

(4) If a proposed amendment is not adopted, the agency shall continue to operate under the previously adopted project area budget without the proposed amendment.

(5) A project area budget may not be amended after March 21, 2005, if the amendment

provides for the agency to receive tax increment for a longer period of time than allowed under the project area budget without the amendment.

17B-4-601. Additional procedure for adopting a redevelopment project area plan.

(1) In addition to other applicable requirements for adopting a project area plan, to adopt a redevelopment project area plan the agency shall:

(a) cause a blight study to be conducted within the survey area as provided in Section **17B-4-602**;

(b) provide notice of a blight hearing as required under Part 7, Notice Requirements;

(c) hold a blight hearing as provided in Section **17B-4-603**; and

(d) after the blight hearing has been held, hold a board meeting, either at the same time as the blight hearing or at a subsequent board meeting, at which the board shall:

(i) consider:

(A) the issue of blight and the evidence and information relating to the existence or nonexistence of blight; and

(B) whether adoption of one or more redevelopment project area plans should be pursued; and

(ii) by resolution make a finding regarding the existence of blight in the proposed redevelopment project area.

(2) The agency's finding of blight under Subsection (1) has no effect until the taxing entity committee adopts a resolution approving the finding.

17B-4-602. Blight study -- Requirements -- Deadline.

(1) Each blight study required under Subsection **17B-4-601**(1)(a) shall:

(a) provide data so the board and taxing entity committee may determine:

(i) whether the conditions described in Subsections **17B-4-604**(1)(a)(i) and (ii) exist in part or all of the survey area;

(ii) whether the factors listed in Subsection **17B-4-604**(1)(a)(iii) are present in the survey area; and

(iii) whether the survey area contains a superfund site;

(b) include a written report setting forth:

(i) the conclusions reached; and

(ii) any other information requested by the agency to determine whether a redevelopment project area is feasible; and

(c) be completed within one year after the adoption of the survey area resolution.

(2) (a) If a blight study is not completed within one year after the adoption of the resolution under Subsection **17B-4-401**(1)(a) designating a survey area, the agency may not approve a redevelopment project area plan based on that blight study unless it first adopts a new resolution under Subsection **17B-4-401**(1)(a).

(b) A new resolution under Subsection (2)(a) shall in all respects be considered to be a resolution under Subsection **17B-4-401**(1)(a) adopted for the first time, except that any actions taken toward completing a blight study under the resolution that the new resolution replaces shall be considered to have been taken under the new resolution.

17B-4-603. Blight hearing -- Owners may review evidence of blight.

(1) In each hearing required under Subsection **17B-4-601**(1)(c), the agency shall:

(a) permit all evidence of the existence or nonexistence of blight within the proposed

redevelopment project area to be presented; and

(b) permit each record owner of property located within the proposed redevelopment project area or the record property owner's representative the opportunity to:

(i) examine and cross-examine witnesses providing evidence of the existence or nonexistence of blight; and

(ii) present evidence and testimony, including expert testimony, concerning the existence or nonexistence of blight.

(2) The agency shall allow record owners of property located within a proposed redevelopment project area the opportunity, for at least 30 days before the hearing, to review the evidence of blight compiled by the agency or by the person or firm conducting the blight study for the agency, including any expert report.

17B-4-604. Conditions on board determination of blight -- Conditions of blight caused by the developer.

(1) An agency board may not make a finding of blight in a resolution under Section **17B-4-601** unless the board finds that the redevelopment project area:

(a) (i) contains buildings or improvements used or intended to be used for residential, commercial, industrial, or other urban purposes, or any combination of those uses;

(ii) contains buildings or improvements on at least 50% of the number of parcels of private real property whose acreage is at least 50% of the acreage of the private real property within the proposed redevelopment project area; and

(iii) is unfit or unsafe to occupy or may be conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime because of any three or more of the following factors:

(A) defective character of physical construction;

(B) high density of population or overcrowding;

(C) inadequate ventilation, light, or spacing between buildings;

(D) mixed character and shifting of uses, resulting in obsolescence, deterioration, or dilapidation;

(E) economic deterioration or continued disuse;

(F) lots of irregular shape or inadequate size for proper usefulness and development, or laying out of lots in disregard of the contours and other physical characteristics of the ground and surrounding conditions;

(G) inadequate sanitation or public facilities which may include streets, open spaces, and utilities;

(H) areas that are subject to being submerged by water; and

(I) existence of any hazardous or solid waste, defined as any substance defined, regulated, or listed as a hazardous substance, hazardous material, hazardous waste, toxic waste, pollutant, contaminant, or toxic substance, or identified as hazardous to human health or the environment under state or federal law or regulation; or

(b) is a superfund site.

(2) (a) For purposes of Subsection (1), if a developer involved in the redevelopment project causes a condition listed in Subsection (1)(a)(iii) within the project area, the condition caused by the developer may not be used in the determination of blight.

(b) Subsection (2)(a) does not apply to a condition that was caused by an owner or tenant who becomes a developer under Section **17B-4-901**.

17B-4-605. Challenging a finding of blight -- Time limit -- De novo review.

(1) If the board makes a finding of blight under Section **17B-4-601** and that finding is approved by resolution adopted by the taxing entity committee, a record owner of property located within the proposed redevelopment project area may challenge the finding by filing an action with the district court for the county in which the property is located.

(2) Each challenge under Subsection (1) shall be filed within 30 days after the taxing entity committee approves the board's finding of blight.

(3) In each action under this section:

(a) the district court shall review de novo the finding of blight; and

(b) the agency maintains the burden of proof regarding the existence of blight.

17B-4-701. Agency to provide notice of hearings.

(1) Each agency shall provide notice, as provided in this part, of each:

(a) blight hearing;

(b) public input hearing;

(c) plan hearing; and

(d) budget hearing.

(2) (a) The notice required under Subsection (1) for a blight hearing may be combined with the notice required for a public input hearing if those two hearings are combined under Subsection **17B-4-801(1)**.

(b) The notice required under Subsection (1) for a plan hearing may be combined with the notice required for a budget hearing if those two hearings are combined under Subsection **17B-4-801(2)**.

17B-4-702. Requirements for notice provided by agency.

(1) The notice required by Section **17B-4-701** shall be given by:

(a) (i) publishing notice, excluding the map referred to in Subsection (2)(b), in a newspaper of general circulation within the county in which the project area or proposed project area is located, at least once a week for the four successive weeks immediately preceding the hearing; or

(ii) if there is no newspaper of general circulation, posting notice in at least three conspicuous places within the county in which the project area or proposed project area is located;

(b) at least 30 days before the hearing:

(i) sending notice by certified mail to:

(A) each assessment owner of property located within the project area or proposed project area; and

(B) each assessment owner of property located outside but within 300 feet of the project area or proposed project area;

(ii) mailing notice to:

(A) the State Tax Commission;

(B) the assessor and auditor of the county in which the project area or proposed project area is located; and

(C) (I) each member of the taxing entity committee; or

(II) if a taxing entity committee has not yet been formed, the State Board of Education and the legislative body or governing board of each taxing entity.

(2) The agency shall include in each notice required under Section **17B-4-701**:

- (a) a specific description of the boundaries of the project area or proposed project area;
- (b) a map of the boundaries of the project area or proposed project area;
- (c) an explanation of the purpose of the hearing;
- (d) a statement of the date, time, and location of the hearing.

(3) The agency shall include in each notice under Subsection (1)(b)(ii):

(a) a statement that property tax revenues resulting from an increase in valuation of property within the project area or proposed project area will be paid to the agency for redevelopment, economic development, or education housing development purposes rather than to the taxing entity to which the tax revenues would otherwise have been paid if:

- (i) a majority of the taxing entity committee consents to the project area budget; and
- (ii) the project area plan provides for the agency to receive tax increment; and

(b) an invitation to the recipient of the notice to submit to the agency comments concerning the subject matter of the hearing before the date of the hearing.

(4) An agency may include in a notice under Subsection (1) any other information the agency considers necessary or advisable, including the public purpose served by the project and any future tax benefits expected to result from the project.

17B-4-703. Additional requirements for notices relating to redevelopment.

(1) The first notice to an assessment owner of property within a proposed redevelopment project area for a public input hearing, blight hearing, or combined public input and blight hearing under Subsection **17B-4-801**(1) shall include the statement required by Section **17B-4-902**.

(2) Each notice under Section **17B-4-702** for a blight hearing shall include a statement that:

- (a) a redevelopment project area is being proposed;
- (b) the proposed redevelopment project area may be declared to have blight;
- (c) the record owner of property within the proposed project area has the right to present evidence at the blight hearing contesting the existence of blight;

(d) the agency will notify the assessment property owners referred to in Subsection **17B-4-702**(1)(b)(i) of each additional public hearing held by the agency concerning the redevelopment project prior to the adoption of the redevelopment project area plan; and

(e) persons contesting the existence of blight in the proposed redevelopment project area may appear before the agency board and show cause why the proposed redevelopment project area should not be designated as a redevelopment project area.

17B-4-704. Additional requirements for notice of hearing on draft project area plan.

Each notice under Section **17B-4-702** of a plan hearing shall include:

(1) a statement that any person objecting to the draft project area plan or contesting the regularity of any of the proceedings to adopt it may appear before the agency board at the hearing to show cause why the draft project area plan should not be adopted; and

(2) a statement that the proposed project area plan is available for inspection at the agency offices.

17B-4-705. Notice required for continued hearing.

The board shall give notice of a hearing continued under Section **17B-4-802** by announcing at the hearing:

- (1) the date, time, and place the hearing will be resumed; or

(2) that it is being continued to a later time and causing a notice of the continued hearing to be:

(a) published once in a newspaper of general circulation within the agency boundaries at least seven days before the hearing is scheduled to resume; or

(b) if there is no newspaper of general circulation, posted in at least three conspicuous places within the boundaries of the agency in which the project area or proposed project area is located.

17B-4-801. Combining hearings.

A board may combine:

(1) a blight hearing with a public input hearing; and

(2) a plan hearing with a budget hearing.

17B-4-802. Continuing a hearing.

Pursuant to the provisions of Section **17B-4-705**, the board may continue from time to time a:

(1) blight hearing;

(2) public input hearing;

(3) combined blight hearing and plan hearing under Subsection **17B-4-801(1)**;

(4) plan hearing;

(5) budget hearing; or

(6) combined plan hearing and budget hearing under Subsection **17B-4-801(2)**.

17B-4-901. Property owner and tenant opportunities to participate in redevelopment project -- Preferential opportunities.

(1) Each agency shall provide record owners of property located within and tenants within a redevelopment project area reasonable opportunities to enter into a participation agreement with the agency through which the owner or tenant may participate in the redevelopment, consistent with the redevelopment project area plan.

(2) (a) Owner participation in redevelopment under a participation agreement may consist of one or more of the following:

(i) retaining, maintaining, and, if necessary, rehabilitating all or portions of the owner's property;

(ii) acquiring adjacent or other properties in the redevelopment project area;

(iii) selling all or portions of the owner's improvements to the agency, retaining the land, and developing the owner's property;

(iv) selling all or portions of the owner's property to the agency and purchasing other property in the redevelopment project area;

(v) selling all or a portion of the owner's property to the agency and obtaining preferences to reenter the redevelopment project area; and

(vi) other methods approved by the agency.

(b) Tenant participation in redevelopment under a participation agreement may consist of:

(i) becoming an owner of property in the redevelopment project area, subject to the opportunities of persons who are already record owners of property in the redevelopment project area; and

(ii) other methods approved by the agency.

(3) An agency may extend reasonable preferential opportunities to record property owners and tenants in a redevelopment project area ahead of persons and entities from outside the

redevelopment project area, to be owners and tenants in the redevelopment project area during and after the completion of the redevelopment.

17B-4-902. Statement of rights of owners of property in redevelopment project area.

(1) Before sending the first notice to assessment owners of property for a public input hearing, blight hearing, or combined public input and blight hearing, each agency shall prepare a written statement regarding the rights of record property owners within a proposed redevelopment project area.

(2) Each written statement under Subsection (1) shall include a statement explaining:

(a) the right of each record property owner and the process to follow to:

(i) object to the inclusion of the record property owner's property within the redevelopment project area;

(ii) object to any required proceeding of the agency in the creation of the redevelopment project area; and

(iii) propose amendments or modifications to the draft redevelopment project area plan;

(b) the right of each record property owner to obtain any document from the agency including:

(A) the blight study;

(B) the draft redevelopment project area plan;

(C) the planning commission report on the redevelopment project area plan;

(D) the owner participation guidelines developed under Subsection **17B-4-402(1)(h)(iv)**;

(E) the relocation guidelines developed by the agency under Section **57-12-9**; and

(F) other documents used by the agency in preparing the redevelopment project area plan or draft redevelopment project area plan; and

(c) the times during which the agency will be available to meet with the record property owner to discuss the process of formulating and implementing the redevelopment project area plan.

(3) Each agency shall, at no charge, provide to a record owner of property within the redevelopment project area one copy of the documents listed in Subsection (2)(b) if the record property owner requests the documents.

(4) A person may bring a civil action against an agency for a violation of this section that results in damage to that person.

17B-4-1001. Agency receipt and use of tax increment -- Distribution of tax increment.

(1) An agency may receive and use tax increment, as provided in this part.

(2) (a) The applicable length of time or number of years for which an agency is to be paid tax increment under this part shall be measured:

(i) for a pre-July 1, 1993 project area plan, from the first tax year regarding which the agency accepts tax increment from the project area; or

(ii) for a post-June 30, 1993 project area plan, from the first tax year the agency is to receive tax increment as shown in the project area budget.

(b) Tax increment may not be paid to an agency for a tax year prior to the tax year following the effective date of the project area plan.

(3) With the written consent of a taxing entity, an agency may be paid tax increment, from that taxing entity's tax revenues only, in a higher percentage or for a longer period of time, or both, than otherwise authorized under this chapter.

(4) Each county that collects property tax on property within a project area shall pay and distribute to the agency the tax increment that the agency is entitled to collect under this chapter, in the manner and at the time provided in Section **59-2-1365**.

17B-4-1002. Taxing entity committee.

(1) Each agency that adopts or proposes to adopt a post-June 30, 1993 project area plan shall, and any other agency may, cause a taxing entity committee to be created.

(2) (a) (i) Each taxing entity committee shall be composed of:

(A) two school district representatives appointed as provided in Subsection (2)(a)(ii);

(B) (I) in a county of the second, third, fourth, fifth, or sixth class, two representatives appointed by resolution of the legislative body of the county in which the agency is located; or

(II) in a county of the first class, one representative appointed by the county executive and one representative appointed by the legislative body of the county in which the agency is located;

(C) if the agency was created by a city or town, two representatives appointed by resolution of the legislative body of that city or town;

(D) one representative appointed by the State Board of Education; and

(E) one representative selected by majority vote of the legislative bodies or governing boards of all other taxing entities that levy a tax on property within the agency's boundaries, to represent the interests of those taxing entities on the taxing entity committee.

(ii) (A) If the agency boundaries include only one school district, that school district shall appoint the two school district representatives under Subsection (2)(a)(i)(A).

(B) If the agency boundaries include more than one school district, those school districts shall jointly appoint the two school district representatives under Subsection (2)(a)(i)(A).

(b) (i) Each taxing entity committee representative under Subsection (2)(a) shall be appointed within 30 days after the agency provides notice of the creation of the taxing entity committee.

(ii) If a representative is not appointed within the time required under Subsection (2)(b)(i), the agency board may appoint a person to serve on the taxing entity committee in the place of the missing representative until that representative is appointed.

(c) (i) A taxing entity committee representative may be appointed for a set term or period of time, as determined by the appointing authority under Subsection (2)(a)(i).

(ii) Each taxing entity committee representative shall serve until a successor is appointed and qualified.

(d) (i) Upon the appointment of each representative under Subsection (2)(a)(i), whether an initial appointment or an appointment to replace an already serving representative, the appointing authority shall:

(A) notify the agency in writing of the name and address of the newly appointed representative; and

(B) provide the agency a copy of the resolution making the appointment or, if the appointment is not made by resolution, other evidence of the appointment.

(ii) Each appointing authority of a taxing entity committee representative under Subsection (2)(a)(i) shall notify the agency in writing of any change of address of a representative appointed by that appointing authority.

(3) A taxing entity committee represents all taxing entities regarding a project area and may:

(a) cast votes that will be binding on all taxing entities;

(b) negotiate with the agency concerning a draft project area plan;

(c) approve or disapprove a project area budget as provided in Section **17B-4-505**;

(d) approve or disapprove amendments to a project area budget as provided in Section **17B-4-507**;

(e) approve exceptions to the limits on the value and size of a project area imposed under this chapter;

(f) approve exceptions to the percentage of tax increment and the period of time that tax increment is paid to the agency as provided in this part;

(g) approve the use of tax increment for access and utilities outside of a project area that the agency and community legislative body determine to be of benefit to the project area, as provided in Subsection **17B-4-1007(1)(a)(ii)(D)**;

(h) waive the restrictions imposed by Subsection **17B-4-503(2)(a)**; and

(i) give other taxing entity committee approval or consent required or allowed under this chapter.

(4) A quorum of a taxing entity committee consists of:

(a) except as provided in Subsection (4)(b):

(i) if the project area is located within a city or town, five members; or

(ii) if the project area is not located within a city or town, four members; or

(b) for an education housing development project area as to which the school district has elected under Subsection **17B-4-1004(5)** not to allow the agency to be paid tax increment from school district tax revenues:

(i) if the project area is located within a city or town, three members; or

(ii) if the project area is not located within a city or town, two members.

(5) Taxing entity committee approval, consent, or other action requires the affirmative vote of a majority of a quorum present at a taxing entity committee meeting.

(6) Each taxing entity committee shall be governed by Title 52, Chapter 4, Open and Public Meetings.

(7) Each time a school district representative or a representative of the State Board of Education votes as a member of a taxing entity committee to allow an agency to be paid tax increment or to increase the amount or length of time that an agency may be paid tax increment, that representative shall, within 45 days after the vote, provide to the representative's respective school board an explanation in writing of the representative's vote and the reasons for the vote.

(8) (a) The assessor of each county in which the agency is located shall provide a written report to the taxing entity committee stating, with respect to property within each project area:

(i) the base taxable value, as adjusted by any adjustments under Section 17B-4-1006; and

(ii) the assessed value.

(b) With respect to the information required under Subsection (8)(a), the assessor shall provide:

(i) actual amounts for each year from the adoption of the project area plan to the time of the report; and

(ii) estimated amounts for each year beginning the year after the time of the report and ending the time that the agency expects no longer to be paid tax increment from property within the project area.

(c) The assessor of the county in which the agency is located shall provide a report under this Subsection (8):

(i) at least annually; and

(ii) upon request of the taxing entity committee, before a taxing entity committee

meeting at which the committee will consider whether to allow the agency to be paid tax increment or to increase the amount of tax increment that the agency may be paid.

17B-4-1003. Tax increment under a pre-July 1, 1993 project area plan.

(1) This section applies to tax increment under a pre-July 1, 1993 project area plan only.

(2) (a) Beginning with the first tax year after April 1, 1983 for which an agency accepts tax increment, an agency may be paid:

(i) (A) for the first through the fifth tax years, 100% of tax increment;

(B) for the sixth through the tenth tax years, 80% of tax increment;

(C) for the eleventh through the fifteenth tax years, 75% of tax increment;

(D) for the sixteenth through the twentieth tax years, 70% of tax increment; and

(E) for the twenty-first through the twenty-fifth tax years, 60% of tax increment; or

(ii) for an agency that has caused a taxing entity committee to be created under Subsection **17B-4-1002**(1), any percentage of tax increment up to 100% and for any length of time that the taxing entity committee approves.

(b) Notwithstanding any other provision of this section:

(i) an agency may be paid 100% of tax increment from a project area for 32 years after April 1, 1983 to pay principal and interest on agency indebtedness incurred before April 1, 1983, even though the size of the project area from which tax increment is paid to the agency exceeds 100 acres of privately owned property under a project area plan adopted on or before April 1, 1983; and

(ii) for up to 32 years after April 1, 1983, an agency debt incurred before April 1, 1983 may be refinanced and paid from 100% of tax increment if the principal amount of the debt is not increased in the refinancing.

(3) (a) For purposes of this Subsection (3), "additional tax increment" means the difference between 100% of tax increment for a tax year and the amount of tax increment an agency is paid for that tax year under the percentages and time periods specified in Subsection (2)(a).

(b) Notwithstanding the tax increment percentages and time periods in Subsection (2)(a) and Subsection **17B-4-403**(1)(m)(i), an agency may be paid additional tax increment for a period ending 32 years after the first tax year after April 1, 1983 for which the agency receives tax increment from the project area if:

(i) the additional tax increment is used to pay some or all of the cost of the land for and installation and construction of a recreational facility, as defined in Section **59-12-702**, or a cultural facility, including parking and infrastructure improvements related to the recreational or cultural facility, whether or not the facility is located within a project area;

(ii) construction of the recreational or cultural facility is commenced on or before December 31, 2005; and

(iii) the additional tax increment is pledged on or before July 1, 2005, to pay all or part of the cost of the land for and the installation and construction of the recreational or cultural facility, including parking and infrastructure improvements related to the recreational or cultural facility.

(c) Notwithstanding Subsection (3)(b), a school district may not, without its consent, be paid less tax increment because of application of Subsection (3)(b) than it would have been paid without that subsection.

(4) Notwithstanding any other provision of this section, an agency may use tax increment received under Subsection (2) for any of the uses indicated in Subsection (3).

17B-4-1004. Tax increment under a post-June 30, 1993 project area plan.

- (1) This section applies to tax increment under a post-June 30, 1993 project area plan only.
 - (2) An agency board may provide in the project area budget for the agency to be paid:
 - (a) if 20% of the project area budget is allocated for housing under Section **17B-4-504**:
 - (i) 100% of annual tax increment for 15 years;
 - (ii) 75% of annual tax increment for 24 years; or
 - (iii) if approved by the taxing entity committee, any percentage of tax increment up to 100%, or any specified dollar amount, for any period of time;
 - (b) if 20% of the project area budget is not allocated for housing under Section **17B-4-504**:
 - (i) 100% of annual tax increment for 12 years;
 - (ii) 75% of annual tax increment for 20 years; or
 - (iii) if approved by the taxing entity committee, any percentage of tax increment up to 100%, or any specified dollar amount, for any period of time.
 - (3) (a) An agency may, without the approval of the taxing entity committee, elect to be paid 100% of annual tax increment for each year beyond the periods specified in Subsection (2) to a maximum of 25 years, including the years the agency is paid tax increment under Subsection (2), if:
 - (i) for an agency in a city in which is located all or a portion of an interchange on I-15 or that would directly benefit from an interchange on I-15:
 - (A) the tax increment paid to the agency during the additional years is used to pay some or all of the cost of the installation, construction, or reconstruction of:
 - (I) an interchange on I-15, whether or not the interchange is located within a project area; or
 - (II) frontage and other roads connecting to the interchange, as determined by the Department of Transportation created under Section **72-1-201** and the Transportation Commission created under Section **72-1-301**, whether or not the frontage or other road is located within a project area; and
 - (B) the installation, construction, or reconstruction of the interchange or frontage and other roads has begun on or before June 30, 2002;
 - (ii) for an agency in a city of the first or second class:
 - (A) the tax increment paid to the agency during the additional years is used to pay some or all of the cost of the land for and installation and construction of a recreational facility, as defined in Section **59-12-702**, or a cultural facility, including parking and infrastructure improvements related to the recreational or cultural facility, whether or not the facility is located within a project area; and
 - (B) the installation or construction of the recreational or cultural facility has begun on or before June 30, 2002.
 - (b) Notwithstanding any other provision of this section, an agency may use tax increment received under Subsection (2) for any of the uses indicated in this Subsection (3).
 - (c) Notwithstanding Subsection (3)(a), a school district may not, without its consent, receive less tax increment because of application of Subsection (3)(a) than it would have received without that subsection.
- (4) An agency may not be paid tax increment from the project area for more than 25 years.
- (5) (a) A school district that levies a tax on property located within a project area under an education housing development project area plan may elect not to allow the agency to be paid tax

increment from the property tax revenues generated by the school district.

(b) An election under Subsection (5)(a) shall be made in writing to the agency before the taxing entity committee's approval of the project area budget.

(c) If a school district makes an election under this Subsection (5):

(i) the agency may not be paid tax increment from property tax revenues generated by the school district; and

(ii) the school district representatives and the State Board of Education representative on the taxing entity committee may not vote on any matter concerning the education housing development project area or project area budget.

17B-4-1005. Limitations on tax increment.

(1) (a) If the development of retail sales of goods is the primary objective of the project area, tax increment may not be paid to or used by an agency unless a finding of blight is made under Part 6, Blight Determination in Redevelopment Project Areas.

(b) Incidental or subordinate development of retail sales of goods does not disqualify an agency from receiving tax increment.

(c) From July 1, 2005 through June 30, 2006, an agency may not be paid or use tax increment generated from the value of property within an economic development or education housing development project area that is attributable to the development of retail sales of goods, unless the tax increment was previously pledged to pay for bonds or other contractual obligations of the agency.

(2) (a) An agency may not be paid any portion of a taxing entity's taxes resulting from an increase in the taxing entity's tax rate that occurs after the taxing entity committee approves the project area budget unless, at the time the taxing entity committee approves the project area budget, the taxing entity committee approves payment of those increased taxes to the agency.

(b) If the taxing entity committee does not approve of payment of the increased taxes to the agency under Subsection (2)(a), the county shall distribute to the taxing entity the taxes attributable to the tax rate increase in the same manner as other property taxes.

17B-4-1006. Base taxable value to be adjusted to reflect other changes.

(1) (a) (i) As used in this Subsection (1), "qualifying decrease" means:

(A) a decrease of more than 20% from the previous tax year's levy; or

(B) a cumulative decrease over a consecutive five-year period of more than 100% from the levy in effect at the beginning of the five-year period.

(ii) The year in which a qualifying decrease under Subsection (1)(a)(i)(B) occurs is the fifth year of the five-year period.

(b) If there is a qualifying decrease in the minimum basic school levy under Section **59-2-902** that would result in a reduction of the amount of tax increment to be paid to an agency:

(i) the base taxable value of taxable property within the project area shall be reduced in the year of the qualifying decrease to the extent necessary, even if below zero, to provide the agency with approximately the same amount of tax increment that would have been paid to the agency each year had the qualifying decrease not occurred; and

(ii) the amount of tax increment paid to the agency each year for the payment of bonds and indebtedness may not be less than what would have been paid to the agency if there had been no qualifying decrease.

(2) (a) The amount of the base taxable value to be used in determining tax increment shall be:

- (i) increased or decreased by the amount of an increase or decrease that results from:
 - (A) a statute enacted by the Legislature or by the people through an initiative;
 - (B) a judicial decision;
 - (C) an order from the State Tax Commission to a county to adjust or factor its assessment rate under Subsection **59-2-704(2)**;
 - (D) a change in exemption provided in Utah Constitution Article XIII, Section 2, or Section **59-2-103**; or
 - (E) an increase or decrease in the percentage of fair market value, as defined under Section **59-2-102**; and
 - (ii) reduced for any year to the extent necessary, even if below zero, to provide an agency with approximately the same amount of money the agency would have received without a reduction in the county's certified tax rate if:
 - (A) in that year there is a decrease in the county's certified tax rate under Subsection **59-2-924(2)(c)** or (d)(i);
 - (B) the amount of the decrease is more than 20% of the county's certified tax rate of the previous year; and
 - (C) the decrease would result in a reduction of the amount of tax increment to be paid to the agency.
- (b) Notwithstanding an increase or decrease under Subsection (2)(a), the amount of tax increment paid to an agency each year for payment of bonds or other indebtedness may not be less than would have been paid to the agency each year if there had been no increase or decrease under Subsection (2)(a).

17B-4-1007. Allowable uses of tax increment.

- (1) (a) An agency may use tax increment:
 - (i) for any of the purposes for which the use of tax increment is authorized under this chapter;
 - (ii) to pay for, including financing or refinancing, all or part of:
 - (A) the redevelopment, economic development, or education housing development in the project area from which the tax increment funds were collected;
 - (B) housing expenditures, projects, or programs as provided in Section **17B-4-1009** or **17B-4-1010**;
 - (C) with the consent of the community legislative body and subject to Subsection (3), the value of the land for and the cost of the installation and construction of any publicly owned building, facility, structure, landscaping, or other improvement within the project area from which the tax increment funds were collected; and
 - (D) with the consent of the community legislative body and the taxing entity committee, the cost of the installation of publicly owned utilities and access outside the project area from which the tax increment funds were collected if the agency board and the community legislative body determine by resolution that the utilities and access are of benefit to the project area; or
 - (iii) for administrative, overhead, legal, and other operating expenses of the agency.
 - (b) The determination of the agency board and the community legislative body under Subsection (1)(a)(ii)(D) regarding benefit to the project area shall be final and conclusive.
- (2) (a) An agency may contract with the community that created the agency or another public entity to use tax increment to reimburse the cost of items authorized by this chapter to be paid by the agency that have been or will be paid by the community or other public entity.
- (b) If land has been or will be acquired or the cost of an improvement has been or will be paid

by another public entity and the land or improvement has been or will be leased to the community, an agency may contract with and make reimbursement from tax increment funds to the community.

(3) Notwithstanding any other provision of this chapter, an agency may not use tax increment to construct municipal buildings, courts or other judicial buildings, or fire stations.

(4) Notwithstanding any other provision of this chapter, an agency may not use tax increment to pay any of the cost of the land, infrastructure, or construction of a stadium or arena constructed after March 1, 2005, unless the tax increment has been pledged for that purpose before February 15, 2005.

17B-4-1008. Agency may make payments to other taxing entities.

(1) An agency may grant tax increment or other agency funds to a taxing entity to offset some or all of the tax revenues that the taxing entity did not receive because of tax increment paid to the agency.

(2) (a) An agency may use tax increment or other agency funds to pay to a school district an amount of money that the agency determines to be appropriate to alleviate a financial burden or detriment borne by the school district because of the redevelopment, economic development, or education housing development.

(b) Each agency that agrees to pay money to a school district under the authority of Subsection (2)(a) shall provide a copy of that agreement to the State Board of Education.

17B-4-1009. Agency may use tax increment for housing costs in other project areas -- Funds to be held in separate accounts.

(1) For purposes of this section, "affordable housing" means housing to be owned or occupied by persons and families of low or moderate income, as determined by resolution of the agency.

(2) An agency may:

(a) use tax increment from a project area to pay all or part of the value of the land for and the cost of installation, construction, and rehabilitation of any building, facility, structure, or other housing improvement, including infrastructure improvements related to housing, located in any project area within the agency's boundaries; and

(b) use up to 20% of tax increment outside of project areas for the purpose of replacing housing units lost by redevelopment, economic development, or education housing development, or increasing, improving, and preserving generally the affordable housing supply of the community that created the agency.

(3) (a) Each agency shall separately account for funds allocated under this section.

(b) Interest earned by the housing fund and any payments or repayments made to the agency for loans, advances, or grants of any kind from the fund, shall accrue to the housing fund.

(c) Each agency designating a housing fund under this section shall use the fund for:

(i) the purposes set forth in this section; or

(ii) the purposes set forth in this chapter relating to the redevelopment, economic development, or education housing development project area from which the funds originated.

(4) An agency may lend, grant, or contribute funds from the housing fund to a person, public entity, housing authority, private entity or business, or nonprofit corporation for affordable housing.

17B-4-1010. Income targeted housing -- Agency may use tax increment for income targeted housing.

(1) As used in this section:

(a) "Annual income" has the meaning as defined under regulations of the U.S. Department of Housing and Urban Development, 24 CFR, Part 813, as amended or as superseded by replacement regulations.

(b) "Fair share ratio" means the ratio derived by:

(i) for a city or town, comparing the percentage of all housing units within the city or town that are publicly subsidized income targeted housing units to the percentage of all housing units within the whole county that are publicly subsidized income targeted housing units; or

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

(c) "Family" has the meaning as defined under regulations of the U.S. Department of Housing and Urban Development, 24 CFR, Part 813, as amended or as superseded by replacement regulations.

(d) "Housing funds" means the funds allocated in the project area budget under Section **17B-4-504** for the purposes provided in Subsection (2).

(e) "Income targeted housing" means housing to be owned or occupied by a family whose annual income is at or below 80% of the median annual income for the county in which the housing is located.

(f) "Unincorporated" means not within a city or town.

(2) (a) Each agency shall use all funds allocated for housing under this section to:

(i) pay part or all of the cost of land or construction of income targeted housing within the community that created the agency, if practicable in a mixed income development or area;

(ii) pay part or all of the cost of rehabilitation of income targeted housing within the community that created the agency;

(iii) pay part or all of the cost of land or installation, construction, or rehabilitation of any building, facility, structure, or other housing improvement, including infrastructure improvements, related to housing located in a project area where blight has been found to exist;

(iv) replace housing units lost as a result of the redevelopment, economic development, or education housing development;

(v) make payments on or establish a reserve fund for bonds:

(A) issued by the agency, the community, or the housing authority that provides income targeted housing within the community; and

(B) all or part of the proceeds of which are used within the community for the purposes stated in Subsection (2)(a)(i), (ii), (iii), or (iv); or

(vi) if the community's fair share ratio at the time of the first adoption of the project area budget is at least 1.1 to 1.0, make payments on bonds:

(A) that were previously issued by the agency, the community, or the housing authority that provides income targeted housing within the community; and

(B) all or part of the proceeds of which were used within the community for the purposes stated in Subsection (2)(a)(i), (ii), (iii), or (iv).

(b) As an alternative to the requirements of Subsection (2)(a), an agency may pay all or

any portion of housing funds to:

- (i) the community for use as provided under Subsection (2)(a);
- (ii) the housing authority that provides income targeted housing within the community for use in providing income targeted housing within the community; or
- (iii) the Olene Walker Housing Loan Fund, established under Title 9, Chapter 4, Part 7, Olene Walker Housing Loan Fund, for use in providing income targeted housing within the community.

(3) The agency or community shall separately account for the housing funds, together with all interest earned by the housing funds and all payments or repayments for loans, advances, or grants from the housing funds.

(4) In using housing funds under Subsection (2)(a), an agency may lend, grant, or contribute housing funds to a person, public body, housing authority, private entity or business, or nonprofit organization for use as provided in Subsection (2)(a).

(5) An agency may:

(a) issue bonds from time to time to finance a housing undertaking under this section, including the payment of principal and interest upon advances for surveys and plans or preliminary loans; and

(b) issue refunding bonds for the payment or retirement of bonds under Subsection (5)(a) previously issued by the agency.

(6) (a) If an agency fails to provide housing funds in accordance with the project area budget and, if applicable, the housing plan adopted under Subsection **17B-4-505(2)**, the loan fund board may bring legal action to compel the agency to provide the housing funds.

(b) In an action under Subsection (6)(a), the court:

(i) shall award the loan fund board a reasonable attorney's fee, unless the court finds that the action was frivolous; and

(ii) may not award the agency its attorney's fees, unless the court finds that the action was frivolous.

17B-4-1011. Base taxable value for new tax.

For purposes of calculating tax increment with respect to a tax that a taxing entity levies for the first time after the effective date of the project area plan, the base taxable value shall be used, subject to any adjustments under Section **17B-4-1006**.

17B-4-1101. Use of eminent domain prohibited.

Except as provided in Section **17B-4-206**, an agency may not use eminent domain to acquire property.

17B-4-1104. Limitation on acquisition of property with existing building.

Without the consent of the owner, an agency may not acquire any real property on which an existing building is to be continued on its present site and in its present form and use unless:

(1) the building requires structural alteration, improvement, modernization, or rehabilitation;

(2) the site or lot on which the building is situated requires modification in size, shape, or use;

or

(3) it is necessary to impose upon the property any of the standards, restrictions, and controls of the project area plan, and the owner fails or refuses to agree to participate in the project area plan.

17B-4-1201. Resolution authorizing issuance of agency bonds -- Characteristics of bonds.

(1) An agency may not issue bonds under this part unless the agency board first adopts a resolution authorizing their issuance.

(2) (a) As provided in the agency resolution authorizing the issuance of bonds under this part or the trust indenture under which the bonds are issued, bonds issued under this part may be issued in one or more series and may be sold at public or private sale and in the manner provided in the resolution or indenture.

(b) Bonds issued under this part shall bear the date, be payable at the time, bear interest at the rate, be in the denomination and in the form, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be subject to the terms of redemption or tender, with or without premium, be payable in the medium of payment and at the place, and have other characteristics as provided in the agency resolution authorizing their issuance or the trust indenture under which they are issued.

17B-4-1202. Sources from which bonds may be made payable -- Agency powers regarding bonds.

(1) The principal and interest on bonds issued by an agency may be made payable from:

(a) the income and revenues of the projects financed with the proceeds of the bonds;

(b) the income and revenues of certain designated projects whether or not they were financed in whole or in part with the proceeds of the bonds;

(c) the income, proceeds, revenues, property, and funds of the agency derived from or held in connection with its undertaking and carrying out redevelopment, economic development, or education housing development;

(d) tax increment funds;

(e) agency revenues generally;

(f) a contribution, loan, grant, or other financial assistance from the federal government or a public entity in aid of redevelopment, economic development, or education housing development; or

(g) funds derived from any combination of the methods listed in Subsections (1)(a) through (f).

(2) In connection with the issuance of agency bonds, an agency may:

(a) pledge all or any part of its gross or net rents, fees, or revenues to which its right then exists or may thereafter come into existence;

(b) encumber by mortgage, deed of trust, or otherwise all or any part of its real or personal property, then owned or thereafter acquired; and

(c) make the covenants and take the action that may be necessary, convenient, or desirable to secure its bonds, or, except as otherwise provided in this chapter, that will tend to make the bonds more marketable, even though such covenants or actions are not specifically enumerated in this chapter.

17B-4-1203. Signature of officer who leaves office.

If an agency officer whose signature appears on a bond issued under this part leaves office before delivery of the bond, the signature shall continue to be valid as if the official had remained in office until delivery of the bond.

17B-4-1204. Contesting the legality of resolution authorizing bonds -- Time limit -- Presumption.

(1) Any person may contest the legality of the resolution authorizing issuance of the bonds or any provisions for the security and payment of the bonds for a period of 30 days after:

- (a) publication of the resolution authorizing the bonds; or
- (b) publication of a notice of bonds containing substantially the items required under

Subsection **11-14-316(2)**.

(2) After the 30-day period under Subsection (1), no lawsuit or other proceeding may be brought contesting the regularity, formality, or legality of the bonds for any reason.

(3) In a lawsuit or other proceeding involving the question of whether a bond issued under this part is valid or enforceable or involving the security for a bond, if a bond recites that the agency issued the bond in connection with a redevelopment, economic development, or education housing development:

- (a) the bond shall be conclusively presumed to have been issued for that purpose; and
- (b) the project area plan and project area shall be conclusively presumed to have been properly formed, adopted, planned, located, and carried out in accordance with this chapter.

17B-4-1205. Authority to purchase agency bonds.

(1) Any person, firm, corporation, association, political subdivision of the state, or other entity or public or private officer may purchase bonds issued by an agency under this part with funds owned or controlled by the purchaser.

(2) Nothing in this section may be construed to relieve a purchaser of agency bonds of any duty to exercise reasonable care in selecting securities.

17B-4-1206. Those executing bonds not personally liable -- Limitation of obligations under bonds -- Negotiability.

(1) A member of an agency board or other person executing an agency bond is not liable personally on the bond.

(2) (a) A bond issued by an agency is not a general obligation or liability of the community, the state, or any of its political subdivisions and does not constitute a charge against their general credit or taxing powers.

(b) A bond issued by an agency is not payable out of any funds or properties other than those of the agency.

(c) The community, the state, and its political subdivisions may not be liable on a bond issued by an agency.

(d) A bond issued by an agency does not constitute indebtedness within the meaning of any constitutional or statutory debt limitation.

(3) A bond issued by an agency under this part is fully negotiable.

17B-4-1207. Oblige rights -- Board may confer other rights.

(1) In addition to all other rights that are conferred on an obligee of a bond issued by an agency under this part and subject to contractual restrictions binding on the obligee, an obligee may:

(a) by mandamus, suit, action, or other proceeding, compel an agency and its board, officers, agents, or employees to perform every term, provision, and covenant contained in any contract of the agency with or for the benefit of the obligee, and require the agency to carry out the

covenants and agreements of the agency and to fulfill all duties imposed on the agency by this part; and

(b) by suit, action, or proceeding in equity, enjoin any acts or things that may be unlawful or violate the rights of the obligee.

(2) (a) In a board resolution authorizing the issuance of bonds or in a trust indenture, mortgage, lease, or other contract, an agency board may confer upon an obligee holding or representing a specified amount in bonds, the rights described in Subsection (2)(b), to accrue upon the happening of an event or default prescribed in the resolution, indenture, mortgage, lease, or other contract, and to be exercised by suit, action, or proceeding in any court of competent jurisdiction.

(b) (i) The rights that the board may confer under Subsection (2)(a) are the rights to:

(A) cause possession of all or part of a redevelopment, economic development, or education housing development project to be surrendered to an obligee;

(B) obtain the appointment of a receiver of all or part of an agency's redevelopment, economic development, or education housing development project and of the rents and profits from it; and

(C) require the agency and its board and employees to account as if the agency and the board and employees were the trustees of an express trust.

(ii) If a receiver is appointed through the exercise of a right granted under Subsection (2)(b)(i)(B), the receiver:

(A) may enter and take possession of the redevelopment, economic development, or education housing development project or any part of it, operate and maintain it, and collect and receive all fees, rents, revenues, or other charges arising from it after the receiver's appointment; and

(B) shall keep money collected as receiver for the agency in separate accounts and apply it pursuant to the agency obligations as the court directs.

17B-4-1208. Bonds exempt from taxes -- Agency may purchase its own bonds.

(1) A bond issued by an agency under this part is issued for an essential public and governmental purpose and is, together with interest on the bond and income from it, exempt from all state taxes except the corporate franchise tax.

(2) An agency may purchase its own bonds at a price that its board determines.

(3) Nothing in this section may be construed to limit the right of an obligee to pursue a remedy for the enforcement of a pledge or lien given under this part by an agency on its rents, fees, grants, properties, or revenues.

17B-4-1301. Annual agency budget -- Fiscal year -- Public hearing required -- Auditor forms -- Requirement to file form.

(1) Each agency shall prepare and its board adopt an annual budget of revenues and expenditures for the agency for each fiscal year.

(2) Each annual agency budget shall be adopted:

(a) for an agency created by a city or town, before June 22; or

(b) for an agency created by a county, before December 15.

(3) The agency's fiscal year shall be the same as the fiscal year of the community that created the agency.

(4) (a) Before adopting an annual budget, each agency board shall hold a public hearing on

the annual budget.

(b) Each agency shall provide notice of the public hearing on the annual budget by:

(i) publishing at least one notice in a newspaper of general circulation within the agency boundaries, one week before the public hearing; or

(ii) if there is no newspaper of general circulation within the agency boundaries, posting a notice of the public hearing in at least three public places within the agency boundaries.

(c) Each agency shall make the annual budget available for public inspection at least three days before the date of the public hearing.

(5) The state auditor shall prescribe the budget forms and the categories to be contained in each agency budget, including:

(a) revenues and expenditures for the budget year;

(b) legal fees; and

(c) administrative costs, including rent, supplies, and other materials, and salaries of agency personnel.

(6) (a) Within 30 days after adopting an annual budget, each agency board shall file a copy of the annual budget with the auditor of the county in which the agency is located, the State Tax Commission, the state auditor, the State Board of Education, and each taxing entity that levies a tax on property from which the agency collects tax increment.

(b) The requirement of Subsection (6)(a) to file a copy of the annual budget with the state as a taxing entity is met if the agency files a copy with the State Tax Commission and the state auditor.

17B-4-1302. Amending the agency annual budget.

(1) An agency board may by resolution amend an annual agency budget.

(2) An amendment of the annual agency budget that would increase the total expenditures may be made only after public hearing by notice published as required for initial adoption of the annual budget.

(3) An agency may not make expenditures in excess of the total expenditures established in the annual budget as it is adopted or amended.

17B-4-1303. Agency report.

(1) (a) On or before November 1 of each year, each agency shall prepare and file a report with the county auditor, the State Tax Commission, the State Board of Education, and each taxing entity that levies a tax on property from which the agency collects tax increment.

(b) The requirement of Subsection (1)(a) to file a copy of the report with the state as a taxing entity is met if the agency files a copy with the State Tax Commission and the state auditor.

(2) Each report under Subsection (1) shall contain:

(a) an estimate of the tax increment to be paid to the agency for the calendar year ending December 31; and

(b) an estimate of the tax increment to be paid to the agency for the calendar year beginning the next January 1.

17B-4-1304. Audit requirements.

Each agency shall comply with the audit requirements of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

17B-4-1305. Audit report.

(1) Each agency required to be audited under Section **17B-4-1304** shall, within 180 days after the end of the agency's fiscal year, file a copy of the audit report with the county auditor, the State Tax Commission, the State Board of Education, and each taxing entity that levies a tax on property from which the agency collects tax increment.

(2) Each audit report under Subsection (1) shall include:

- (a) the tax increment collected by the agency for each project area;
- (b) the amount of tax increment paid to each taxing entity under Section **17B-4-1008**;
- (c) the outstanding principal amount of bonds issued or other loans incurred to finance the costs associated with the agency's project areas;
- (d) the actual amount expended for:
 - (i) acquisition of property;
 - (ii) site improvements or site preparation costs;
 - (iii) installation of public utilities or other public improvements; and
 - (iv) administrative costs of the agency.

17B-4-1306. County auditor report on project areas.

(1) (a) On or before March 31 of each year, the auditor of each county in which an agency is located shall prepare a report on the project areas within each agency.

(b) The county auditor shall send a copy of each report under Subsection (1)(a) to the agency that is the subject of the report, the State Tax Commission, the State Board of Education, and each taxing entity that levies a tax on property from which the agency collects tax increment.

(2) Each report under Subsection (1)(a) shall report:

- (a) the total assessed property value within each project area for the previous tax year;
- (b) the base taxable value of property within each project area for the previous tax year;
- (c) the tax increment available to be paid to the agency for the previous tax year;
- (d) the tax increment requested by the agency for the previous tax year; and
- (e) the tax increment paid to the agency for the previous tax year.

(3) Within 30 days after a request by an agency, the State Tax Commission, the State Board of Education, or any taxing entity that levies a tax on property from which the agency receives tax increment, the county auditor or the county assessor shall provide access to:

(a) the county auditor's method and calculations used to make adjustments under Section **17B-4-1006**;

(b) the unequalized assessed valuation of an existing or proposed project area, or any parcel or parcels within an existing or proposed project area, if the equalized assessed valuation has not yet been determined for that year; and

(c) the most recent equalized assessed valuation of an existing or proposed project area or any parcel or parcels within an existing or proposed project area; and

(d) the tax rate of each taxing entity adopted as of November 1 for the previous tax year.

17B-4-1401. Dissolution by ordinance -- Restrictions -- Filing copy of ordinance -- Agency records -- Dissolution expenses.

(1) (a) Subject to Subsection (1)(b), the legislative body of the community that created an agency may, by ordinance, deactivate and dissolve the agency.

(b) An ordinance dissolving an agency may not be adopted unless the agency has no outstanding bonded indebtedness, other unpaid loans, indebtedness, or advances, and no legally

binding contractual obligations with persons or entities other than the community.

(2) (a) Within ten days after adopting an ordinance under Subsection (1), the community legislative body shall file a certified copy of the ordinance with the lieutenant governor.

(b) Upon the lieutenant governor's issuance of the certificate of dissolution under Section **67-1a-6.5**, the agency is dissolved.

(c) Within ten days after receiving the certificate of dissolution from the lieutenant governor under Section **67-1a-6.5**, the community legislative body shall send a copy of the certificate of dissolution and the ordinance adopted under Subsection (1) to the State Board of Education, and each taxing entity.

(d) The community legislative body shall publish a notice of dissolution in a newspaper of general circulation in the county in which the dissolved agency is located.

(3) The books, documents, records, papers, and seal of each dissolved agency shall be deposited for safekeeping and reference with the recorder of the community that dissolved the agency.

(4) The agency shall pay all expenses of the deactivation and dissolution.