CHAPTER 40-63
RENAISSANCE ZONES

40-63-01. Definitions.

As used in this chapter:

1. "Boundary" means the boundary established by vote of the city governing body and approved by the department of commerce division of community services.
2. "Development plan" means a written plan that addresses the criteria in subsection 1 of section 40-63-03 and includes the following:
   a. A map of the proposed renaissance zone which indicates the geographic boundaries and blocks, a description of the properties and structures on each block, identification of those properties and structures to be targeted for potential zone projects, and a description of the present use and conditions of the targeted properties and structures.
   b. A description of the existing physical assets, in particular natural or historical assets, of the zone and a plan for the incorporation and enhancement of the assets within the proposed development.
   c. An outline of goals and objectives and proposed outcomes, including major milestones or benchmarks, by which to gauge success resulting from the designation of the zone.
   d. A description of the types of projects the city would encourage in the city's targeted properties.
   e. A description of the promotion, development, and management strategies to maximize investment in the zone.
   f. A plan for the development, promotion, and use of a renaissance fund organization, if one is desired to be established. If a city is not ready to commit to establishing a renaissance fund organization, the city may indicate in the renaissance zone application the city's desire to submit a plan for approval at a later date.
   g. Evidence of community support and commitment from residential and business interests.
3. "Investor" means the individual, partnership, limited partnership, limited liability company, trust, or corporation making an investment in a renaissance fund organization.
4. "Lease" means the lease of space in a building in a designated renaissance zone by a new business moving into the zone or by an existing zone business expanding in the zone, and the continuation of a lease of an existing zone tenant in a building rehabilitated as an approved zone project. For existing zone tenants expanding in the zone, the term does not include existing leased space.
5. "Local zone authority" means the city or the entity designated by the city to promote, develop, and manage the zone and may include any nonprofit incorporated entity such as an economic development corporation, community development corporation, main street organization, or chamber of commerce.
6. "Original principal amount" means the funds invested in a renaissance fund organization after designation of the renaissance zone and before the sunset of that zone.
7. "Rehabilitation", as used in sections 40-63-04 and 40-63-05, means the repair or remodeling of a building or public utility infrastructure at a cost that is equal to or exceeds fifty percent of the current true and full value for commercial buildings or public utility infrastructure and twenty percent for single-family homes.
8. "Taxpayer" means an individual, corporation, or trust subject to the taxes imposed by chapter 57-38 and includes a partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity.
9. "Zone" means a renaissance zone proposed by a city and designated by the department of commerce division of community services.

10. "Zone project" means the purchase, lease, rehabilitation, or historical preservation or renovation of a building or space in a building approved for zone incentives by a majority vote of the city governing body or zone authority.

40-63-02. Eligibility - Local zone authority designation.

Any incorporated city may apply to the department of commerce division of community services to designate a portion of the city as a renaissance zone. Any individual, partnership, limited partnership, limited liability company, trust, or corporation may apply for a tax credit or exemption under sections 40-63-04 through 40-63-07. The governing body of a city may designate a local zone authority to implement a development plan on behalf of the city.

40-63-03. Renaissance zones.

1. A city may apply to the department of commerce division of community services to designate a portion of that city as a renaissance zone if the following criteria are met:
   a. The geographic area proposed for the renaissance zone is located wholly within the boundaries of the city submitting the application.
   b. The application includes a development plan.
   c. The proposed renaissance zone is not more than twenty-three square blocks, except in a city with a population of greater than five thousand the renaissance zone may exceed twenty-three square blocks at the rate of one additional block for each additional five thousand population to a maximum size of thirty-eight blocks. Population is based upon the most recent federal decennial census.

      If a city finds that renaissance zone projects have satisfactorily completed one or more blocks within the renaissance zone, the city may apply for and the department of commerce division of community services may approve withdrawal of those blocks from the renaissance zone and replacement of those blocks with other blocks that otherwise meet the requirements of this chapter.
   d. Except as provided under subdivision g, the proposed renaissance zone has a continuous boundary and all blocks are contiguous.
   e. The proposed land usage includes both commercial and residential property.
   f. The application includes the proposed duration of renaissance zone status, not to exceed fifteen years. Upon application by the city, the department of commerce division of community services may extend the duration of renaissance zone status in increments of up to five years.
   g. The proposed renaissance zone may have a single exception to the continuous boundary and contiguous block requirements under subdivision d if the area of the excepted noncontiguous blocks does not exceed three square blocks.
2. The department of commerce division of community services shall:
   a. Review all applications for renaissance zone designation against the criteria established in this section and designate zones.
   b. Approve or reject the duration of renaissance zone status as submitted in an application.
   c. Approve or reject the geographic boundaries and total area of the renaissance zone as submitted in an application.
   d. Promote the renaissance zone program.
   e. Monitor the progress of the designated renaissance zones against submitted plans in an annual plan review.
   f. Report on renaissance zone progress to the governor and the legislative management on an annual basis until all designated zones expire.
3. The department of commerce division of community services shall consider the following criteria in designating a renaissance zone:
   a. The viability of the development plan.
   b. The incorporation and enhancement of unique natural and historic features into the development plan.
   c. Whether the development plan is creative and innovative in comparison to other applications.

d. Public and private commitment to and other resources available for the proposed renaissance zone, including the provisions for a renaissance fund organization.
e. How renaissance zone designation would relate to a broader plan for the community as a whole.
f. How the local regulatory burden, in particular that burden associated with the renovation of historic properties and that burden associated with mixed use development, will be eased for developers and investors in the renaissance zone.
g. The strategies for the promotion, development, and management of the zone, including the use of a local zone authority if designated.
h. Any other information required by the office.

4. The department of commerce division of community services may not designate a portion of a city as a renaissance zone unless, as a part of the application, the city provides a resolution from the governing body of the city that states if the renaissance zone designation is granted, persons and property within the renaissance zone are exempt from taxes as provided in sections 40-63-04 through 40-63-07.
5. A city may not propose or be part of more than one renaissance zone.
6. A parcel of property may be exempted from property taxes under section 40-63-05 only once, but during the five taxable years of eligibility for that exemption, the property tax exemption transfers with the transfer of the property to a qualifying user. The ownership or lease of, or investment in, a parcel of property may qualify for exemption or credit under section 40-63-04 only once, but during the five taxable years of eligibility for that exemption or credit, the exemption or credit under section 40-63-04 transfers with the transfer of the property to a qualified user and with respect to the year in which the transfer is made must be prorated for use of the property during that year.
7. A city may apply to the department of commerce division of community services at any time during the duration of a zone to expand a previously approved renaissance zone that is less than the maximum size allowed under subdivision c of subsection 1. If the expansion is approved by the department of commerce division of community services, the blocks in the expansion are eligible for up to fifteen years of renaissance zone status.
8. The use of grant funds as the sole source of investment in the purchase of a building or space in a building does not qualify a taxpayer for any tax exemption or credit available under the chapter, and grant funds may not be counted in determining if the cost of rehabilitation meets or exceeds the current true and full value of the building.
9. If a portion of an approved renaissance zone is not progressing, the city may request the department of commerce division of community services to permit deleting that portion and to make an adjustment of the boundaries to add another equal, contiguous area to the original zone.
10. If within a renaissance zone there is property that is included in a tax increment financing district, the city in which the property is located shall provide the department of commerce an annual report regarding any such property at the time requested by the department of commerce. The report required under this subsection must identify the property, provide the expected duration of inclusion of the property in the tax increment financing district and the renaissance zone, and identify any property and income tax benefits of the property and the expected duration of those benefits. The department of commerce shall deliver an annual report compiling the information required under this subsection to the legislative management interim committee on taxation issues or upon request of any other interim committee of the legislative management.

40-63-04. Income tax exemptions.

1. An individual taxpayer who purchases or rehabilitates single-family residential property for the individual's primary place of residence as a zone project is exempt from up to ten thousand dollars of personal income tax liability as determined under section

57-38-30.3 for five taxable years beginning with the date of occupancy or completion of rehabilitation.

2. A taxpayer that purchases, leases, rehabilitates, or makes leasehold improvements to residential, public utility infrastructure, or commercial property for any business or investment purpose as a zone project is exempt from tax on income derived from the business or investment locations within the zone for five taxable years, beginning with the date of purchase, lease, or completion of rehabilitation.
   a. The maximum amount of income that a taxpayer may exempt from tax under this subsection for any taxable year is five hundred thousand dollars. The limitation in this subdivision applies to the sum of the exempt income derived from the taxpayer's business and investment interests in all zone projects.
   b. If a zone project consists of a physical expansion of an existing building owned and used by the taxpayer for business or investment purposes, the amount of income exempt from tax under this subsection is limited to an amount equal to the income derived from the business, or from the investment use of the building, during the taxable year multiplied by a ratio equal to the square footage added by the expansion divided by the total square footage of the building after expansion.
3. If the cost of a new business purchase, leasehold improvement, or expansion of an existing business, approved as a zone project, exceeds seventy-five thousand dollars, and the business is located in a city with a population of not more than two thousand five hundred, an individual taxpayer may, in lieu of the exemption provided in subsection 2, elect to take an income tax exemption of up to two thousand dollars of individual income tax liability as determined under section 57-38-30.3. The election must be made on the taxpayer's return as originally and timely filed. The election is irrevocable and binding for the duration of the exemptions provided in subsection 2 or this subsection. If an election is not made on the original return, the taxpayer is only eligible for the exemption provided in subsection 2.
4. If a property owner not participating in a renaissance zone project is required to make changes in utility services or in a building structure because of changes made to property that is part of a zone project, the owner of the nonparticipating property is entitled to state income tax credits equal to the total amount of the investment necessary to complete the required changes. The credit must be approved by the local renaissance zone authority. The credit must be claimed in the taxable year in which the related project was completed. The credit may not exceed the taxpayer's tax liability, and an unused credit may be carried forward up to five taxable years.
5. The exemptions provided by this section do not eliminate any duty to file a return or to report income as required under chapter 57-38.

40-63-05. Property tax exemptions.

1. A municipality may grant a partial or complete exemption from ad valorem taxation on single-family residential property, exclusive of the land on which it is situated, if the property was purchased or rehabilitated by an individual for the individual's primary place of residence as a zone project. An exemption granted under this subsection may not extend beyond five taxable years following the date of acquisition or completion of rehabilitation.
2. A municipality may grant a partial or complete exemption from ad valorem taxation on buildings, structures, fixtures, and improvements purchased or rehabilitated as a zone project for any business or investment purpose. The state board of equalization may grant a partial or complete exemption from ad valorem taxation on public utility infrastructure rehabilitated as a zone project. An exemption under this subsection may not extend beyond five taxable years following the date of purchase or completion of rehabilitation.

40-63-06. Historic preservation and renovation tax credit.

A credit against state tax liability as determined under sections 57-38-30 and 57-38-30.3 is allowed for investments in the historic preservation or renovation of property within the

renaissance zone. The amount of the credit is twenty-five percent of the amount invested, up to a maximum of two hundred fifty thousand dollars. The credit may be claimed in the year in which the preservation or renovation is completed. Any excess credit may be carried forward for a period of up to five taxable years.

40-63-07. Renaissance fund organization - Exemption from taxation.

1. Each city with a designated renaissance zone may establish a renaissance fund organization, if the detailed plan for such an organization is clearly established in the development plan and approved with the plan, or is submitted at a later date to the department of commerce division of community services for approval after the designation of a renaissance zone.
2. The purpose of a renaissance fund organization is solely to raise funds to be used to finance zone projects and other projects located in designated renaissance zones. A renaissance fund organization may provide financing to projects undertaken by individuals, partnerships, limited partnerships, limited liability companies, trusts, corporations, nonprofit organizations, and public entities. The financing may include any combination of equity investments, loans, guarantees, and commitments for financing. The amount of financing is not limited by this chapter.
3. A renaissance fund organization is exempt from any tax imposed by chapter 57-38. An exemption under this section may be passed through to any shareholder, partner, and owner if the renaissance fund organization is a passthrough entity for tax purposes. A corporation entitled to the exemption provided by this subsection shall file required returns and report income to the tax commissioner as required by the provisions of chapter 57-38 as if the exemption did not exist. If an employer, this subsection does not exempt a renaissance fund organization from complying with the income tax withholding laws.
4. A credit against state tax liability as determined under section 57-38-30 or 57-38-30.3 is allowed for investments in a renaissance fund organization. The amount of the credit is fifty percent of the amount invested in the renaissance fund organization during the taxable year. Any amount of credit which exceeds a taxpayer's tax liability for the taxable year may be carried forward for up to five taxable years after the taxable year in which the investment was made.
5. The total amount of credits allowed under this section may not exceed, in the aggregate, eight million five hundred thousand dollars for investments in renaissance fund organizations. A renaissance fund organization that has received investments that qualify for the credits under this subsection shall use those investments to finance projects within a renaissance zone.
6. Income to a renaissance fund organization derived from the sale or refinancing of zone properties financed wholly or in part by the organization may be disbursed as annual dividends equal to the income, minus ten percent, derived from all sources and proportional to the investment. In the event of a loss to the fund resulting in a temporary diminishment of the fund below the original principal amount, no annual dividend may be paid until the fund is restored.
7. Income to a renaissance fund organization derived from interest or the temporary investment of its funds in certificates of deposit, bonds, treasury bills, or securities may be used for administration.
8. If an investment in a renaissance fund organization which is the basis for a credit under this section is redeemed by the investor within ten years of the date it is purchased, the credit provided by this section for the investment must be disallowed, and any credit previously claimed and allowed with respect to the investment must be paid to the tax commissioner with the appropriate return of the taxpayer covering the period in which the redemption occurred. When payments are made to the tax commissioner under this section, the amount collected must be handled in the same manner as if no credit had been allowed.
9. A renaissance fund organization shall secure an annual audit of its financial records, prepared by an independent certified public accounting firm in accordance with

generally accepted auditing standards. The audit report must include a statement of the percentage of annual investments received by the organization which have been invested by the organization in investments permitted under this chapter, including the use of investments, distinguishing between organization investments made in renaissance zones and outside renaissance zones. A renaissance fund organization shall file a copy of each audit of its financial records under this subsection with the governing body of the city in which it was established, the department of commerce division of community services, and the tax commissioner. The department of commerce division of community services shall provide an annual report to the budget section of the legislative management showing the conclusions of audit reports filed under this subsection.

10. Renaissance fund organization officers and employees may be actively involved in the enterprises in which the renaissance fund organization invests but the renaissance fund organization may not invest in any enterprise if any one renaissance fund organization officer or employee owns more than forty-nine percent of the ownership interest in the enterprise. A renaissance fund organization may not invest in an enterprise if renaissance fund organization officers and employees collectively own more than forty-nine percent of the ownership interests, either through direct ownership or through ownership of interest in a passthrough entity.

40-63-08. Contributions - Use.

Repealed by S.L. 2001, ch. 359, § 11.

40-63-09. Rules and administration - Income tax secrecy exception.

The tax commissioner shall administer this chapter with respect to an income tax exemption or credit and has the same powers as provided under section 57-38-56 for purposes of this chapter. The secrecy provisions of section 57-38-57 do not apply to exemptions or credits received by taxpayers under sections 40-63-04, 40-63-06, and 40-63-07, but only when a local zone authority inquires of the tax commissioner about exemptions or credits claimed under sections 40-63-04, 40-63-06, and 40-63-07 with regard to that local zone authority or to the extent necessary for the tax commissioner to administer the tax exemptions or credits.

40-63-10. Passthrough of tax exemption or credit.

A partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity that purchases or leases property in a renaissance zone for any business purpose, invests in a historic preservation or renovation of property within a renaissance zone, or invests in a renaissance fund organization must be considered to be the taxpayer for purposes of any investment limitations in sections 40-63-04, 40-63-06, and 40-63-07, and the amount of the exemption or credit allowed with respect to the entity's investments must be determined at the passthrough entity level. The amount of the total exemption or credit determined at the entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity.

40-63-11. Tax benefits not available to delinquent taxpayer.

A taxpayer may not be delinquent in payment of any state and local tax liability to be eligible for a tax benefit under this chapter.