

Utah PACE Enabling Laws

Utah Code Ann. §§ 11-38-301 to 11-38-304
Current through the 2019 Regular Session

Chapter 38 – Quality Growth Act

Part 3 – LeRay McAllister Critical Land Conservation Program

11-38-301. LeRay McAllister Critical Land Conservation Program.

- (1) There is created a program entitled the "LeRay McAllister Critical Land Conservation Program."
- (2) Funding for the program shall be a line item in the budget of the Quality Growth Commission. The line item shall be nonlapsing.

History: Amended by Chapter 368, 2009 General Session

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

- (1) Subject to Subsection (2), the commission may authorize the use of money in the program, by grant, to:
 - (a) a local entity;
 - (b) the Department of Natural Resources created under Section 79-2-201;
 - (c) the Department of Agriculture and Food created under Section 4-2-102; or
 - (d) a charitable organization that qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code.
- (2)
 - (a) The money in the program shall be used for preserving or restoring open land and agricultural land.
 - (b)
 - (i) Except as provided in Subsection (2)(b)(ii), money from the program may not be used to purchase a fee interest in real property in order to preserve open land or agricultural land, but may be used to establish a conservation easement under Title 57, Chapter 18, Land Conservation Easement Act, or to fund similar methods to preserve open land or agricultural land.
 - (ii) Notwithstanding Subsection (2)(b)(i), money from the fund may be used to purchase a fee interest in real property to preserve open land or agricultural land if:
 - (A) the parcel to be purchased is no more than 20 acres in size; and
 - (B) with respect to a parcel purchased in a county in which over 50% of the land area is publicly owned, real property roughly equivalent in size and located within that county is contemporaneously transferred to private ownership from the governmental entity that purchased the fee interest in real property.
 - (iii) Eminent domain may not be used or threatened in connection with any purchase using money from the program.
 - (iv) A parcel of land larger than 20 acres in size may not be divided into separate parcels smaller than 20 acres each to meet the requirement of Subsection (2)(b)(ii).
 - (c) A local entity, department, or organization under Subsection (1) may not receive money from the program unless it provides matching funds equal to or greater than the amount of money received from the program.

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

(e) The commission shall give priority to requests from the Department of Natural Resources for up to 20% of each annual increase in the amount of money in the program if the money is used for the protection of wildlife or watershed.

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

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

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

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

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

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

(d) the funds available;

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

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

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

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

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

(5) Each interest in real property purchased with money from the program shall be held and administered by the state or a local entity.

History: Amended by Chapter 345, 2017 General Session, effective 7/1/2017

11-38-303. Repealed.

11-38-304. Commission to report annually.

The commission shall submit an annual report to the Infrastructure and General Government and Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittees:

(1) specifying the amount of each disbursement from the program;

(2) identifying the recipient of each disbursement and describing the project for which money was disbursed; and

(3) detailing the conditions, if any, placed by the commission on disbursements from the program.

History: Amended by Chapter 51, 2017 General Session, effective 5/9/2017

<https://le.utah.gov/xcode/Title11/Chapter38/11-38-P3.html>