

CHAPTER 291

GOVERNMENT - LOCAL

HOUSE BILL 08-1349

BY REPRESENTATIVE(S) Gagliardi, Kerr J., and Pommer;
also SENATOR(S) Windels.**AN ACT****CONCERNING THE MODIFICATION OF PROCEDURES FOR THE COLLECTION OF PROPERTY TAXES IN CONNECTION WITH TAX INCREMENT FINANCING ON THE PART OF CERTAIN AUTHORITIES ESTABLISHED BY MUNICIPALITIES.***Be it enacted by the General Assembly of the State of Colorado:***SECTION 1.** 31-25-107 (9) (a), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

31-25-107. Approval of urban renewal plans by the local governing body. (9) (a) (III) IN CALCULATING AND MAKING PAYMENTS AS DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a), THE COUNTY TREASURER MAY OFFSET THE AUTHORITY'S PRO RATA PORTION OF ANY PROPERTY TAXES THAT ARE PAID TO THE AUTHORITY UNDER THE TERMS OF SUBPARAGRAPH (II) OF THIS PARAGRAPH (a) AND THAT ARE SUBSEQUENTLY REFUNDED TO THE TAXPAYER AGAINST ANY SUBSEQUENT PAYMENTS DUE TO THE AUTHORITY FOR THE URBAN RENEWAL PROJECT. THE AUTHORITY SHALL MAKE ADEQUATE PROVISION FOR THE RETURN OF OVERPAYMENTS IN THE EVENT THAT THERE ARE NOT SUFFICIENT PROPERTY TAXES DUE TO THE AUTHORITY TO OFFSET THE AUTHORITY'S PRO RATA PORTION OF THE REFUNDS. THE AUTHORITY MAY ESTABLISH A RESERVE FUND FOR THIS PURPOSE OR ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE MUNICIPAL GOVERNING BODY IN WHICH THE MUNICIPALITY ASSUMES RESPONSIBILITY FOR THE RETURN OF THE OVERPAYMENTS. THE PROVISIONS OF THIS SUBPARAGRAPH (III) SHALL NOT APPLY TO A CITY AND COUNTY.

SECTION 2. 31-25-107 (9) (b), Colorado Revised Statutes, is amended to read:

31-25-107. Approval of urban renewal plans by the local governing body. (9) (b) The portion of taxes described in subparagraph (II) of paragraph (a) of this

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

subsection (9) may be irrevocably pledged by the authority for the payment of the principal of, the interest on, and any premiums due in connection with such bonds, loans, advances, and indebtedness. THIS IRREVOCABLE PLEDGE SHALL NOT EXTEND TO ANY TAXES THAT ARE PLACED IN A RESERVE FUND TO BE RETURNED TO THE COUNTY FOR REFUNDS OF OVERPAYMENTS BY TAXPAYERS; EXCEPT THAT THIS LIMITATION ON THE EXTENSION OF THE IRREVOCABLE PLEDGE SHALL NOT APPLY TO A CITY AND COUNTY.

SECTION 3. 31-25-807 (3) (a), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

31-25-807. Powers - duties. (3) (a) (III) IN CALCULATING AND MAKING PAYMENTS AS DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a), THE COUNTY TREASURER MAY OFFSET THE AUTHORITY'S PRO RATA PORTION OF ANY PROPERTY TAXES THAT ARE PAID TO THE AUTHORITY UNDER THE TERMS OF SUBPARAGRAPH (II) OF THIS PARAGRAPH (a) AND THAT ARE SUBSEQUENTLY REFUNDED TO THE TAXPAYER AGAINST ANY SUBSEQUENT PAYMENTS DUE TO THE AUTHORITY FOR THE PLAN OF DEVELOPMENT AREA. THE AUTHORITY SHALL MAKE ADEQUATE PROVISION FOR THE RETURN OF OVERPAYMENTS IN THE EVENT THAT THERE ARE NOT SUFFICIENT PROPERTY TAXES DUE TO THE AUTHORITY TO OFFSET THE AUTHORITY'S PRO RATA PORTION OF THE REFUNDS. THE AUTHORITY MAY ESTABLISH A RESERVE FUND FOR THIS PURPOSE OR ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE GOVERNING BODY OF THE MUNICIPALITY THAT ESTABLISHED THE AUTHORITY IN WHICH THE MUNICIPALITY ASSUMES RESPONSIBILITY FOR THE RETURN OF THE OVERPAYMENTS. THE PROVISIONS OF THIS SUBPARAGRAPH (III) SHALL NOT APPLY TO A CITY AND COUNTY.

SECTION 4. 31-25-807 (3) (b), Colorado Revised Statutes, is amended to read:

31-25-807. Powers - duties. (3) (b) The special fund described in subparagraph (II) of paragraph (a) of this subsection (3) and the tax moneys paid into such fund may be irrevocably pledged by the municipality for the payment of the principal of, the interest on, and any premiums due in connection with such bonds, loans, advances, or indebtedness if the question of issuing such bonds or otherwise providing for such loans, advances, or indebtedness and the question of any such intended pledge are first submitted for approval to the qualified electors of the district at a special election to be held for that purpose. Any such election required by this paragraph (b) shall be called by resolution of the board adopted at a regular or special meeting thereof and approved by the governing body by a vote of a majority of the members thereof at least thirty days prior to such election. Except with respect to the qualifications of electors, such election together with all attendant preparations therefor and proceedings thereafter shall be held and conducted in the manner prescribed by law for the holding and conducting of other regular or special elections in the municipality. THIS IRREVOCABLE PLEDGE SHALL NOT EXTEND TO ANY TAXES THAT ARE PLACED IN A RESERVE FUND TO BE RETURNED TO THE COUNTY FOR REFUNDS OF OVERPAYMENTS BY TAXPAYERS; EXCEPT THAT THIS LIMITATION ON THE EXTENSION OF THE IRREVOCABLE PLEDGE SHALL NOT APPLY TO A CITY AND COUNTY.

SECTION 5. 39-1-113 (2) and (3), Colorado Revised Statutes, are amended to read:

39-1-113. Abatement and refund of taxes. (2) (a) Whenever any abatement or refund in an amount of one thousand dollars or less is recommended by the board of county commissioners, the board shall order the abatement of taxes pro rata for all levies applicable to such property, or, in the case of a refund, the board shall order the refund of taxes pro rata by all ~~taxing~~ jurisdictions receiving payment thereof.

(b) Whenever any abatement or refund in an amount of one thousand dollars or less has been agreed upon and settled by the assessor pursuant to subsection (1.5) of this section, the assessor shall order the abatement of taxes pro rata for all levies applicable to such property, or, in the case of a refund, the assessor shall order the refund of taxes pro rata by all ~~taxing~~ jurisdictions receiving payment thereof.

(3) Whenever any abatement or refund in an amount in excess of one thousand dollars is recommended by the board of county commissioners, two copies of an application therefor, reciting the amount of such abatement or refund and the grounds upon which it should be allowed, shall be submitted to the administrator for review pursuant to section 39-2-116. If an application is approved, the board of county commissioners shall order the abatement of taxes pro rata for all levies applicable to such property, or, in the case of a refund, the board of county commissioners shall order the refund of taxes pro rata by all ~~taxing~~ jurisdictions receiving payment thereof.

SECTION 6. 39-8-109, Colorado Revised Statutes, is amended to read:

39-8-109. Effects of board of assessment appeals or district court decision.

(1) If upon appeal the appellant is sustained, in whole or in part, then the appellant shall provide a copy of the order or judgment of the board of assessment appeals or district court, as the case may be, to the county assessor. If the order or judgment has been appealed, then the appellant shall present to the county assessor a copy of the original order or judgment of the board of assessment appeals or district court and copies of all further decisions of the board of assessment appeals, district court, court of appeals, and supreme court. Upon presentation to the treasurer by the county assessor of a copy of the order or judgment of the board of assessment appeals or district court, as the case may be, and, if the case has been appealed, copies of all further decisions of the board of assessment appeals, district court, court of appeals, and supreme court, modifying the valuation for assessment of the property, the appellant, identified as the petitioner or plaintiff on the order or judgment of the board of assessment appeals or district court, shall forthwith receive the appropriate refund of taxes and delinquent interest thereon, together with refund interest at the same rate as delinquent interest as specified in section 39-10-104.5, and a refund of costs in said court or board of assessment appeals, as the case may be, including the fees of the appellant's witnesses, in such amount as may be fixed by the court or board of assessment appeals, as the case may be. Such refund interest shall only accrue from the date on which payment of taxes and delinquent interest thereon was received by the treasurer. Such refund shall be paid to the appellant even if the appellant is not the current owner of the property. If the order or judgment of either such court or board of assessment appeals is for the county, then the county shall recover costs from the appellant in such amount as may be fixed by the court or board of assessment appeals, as the case may be.

(2) IN THE EVENT THAT THE TREASURER REFUNDS TAXES AND INTEREST TO THE APPELLANT BASED ON A MODIFICATION OF THE VALUATION FOR ASSESSMENT OF THE PROPERTY PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE TREASURER SHALL BE ENTITLED TO REIMBURSEMENT FOR THE REFUND OF TAXES AND INTEREST PRO RATA BY ALL JURISDICTIONS RECEIVING PAYMENT THEREOF AND MAY REQUEST REIMBURSEMENT FROM THE JURISDICTIONS OR OFFSET THE REIMBURSEMENTS AGAINST SUBSEQUENT PAYMENTS. THE PROVISIONS OF THIS SUBSECTION (2) SHALL NOT APPLY TO A CITY AND COUNTY.

SECTION 7. 39-10-107 (1), Colorado Revised Statutes, is amended to read:

39-10-107. Apportionment of taxes, delinquent interest - payment.

(1) Notwithstanding any other provision of law, ~~to the contrary~~, all taxes collected by the treasurer shall be apportioned, credited, and distributed to the state, the county, and the several towns, cities, school districts, and special districts within the county on the tenth day of each month for all taxes collected during the immediately preceding month; except that any prior years' taxes collected during any given year on oil and gas leaseholds and lands ~~which~~ THAT had previously been omitted from the assessment roll due to underreporting of the selling price or the quantity of oil and gas sold therefrom shall be placed in escrow by the treasurer to be apportioned, credited, and distributed during January of the subsequent year. Prior to being apportioned, credited, and distributed, such taxes shall be reduced by an amount equal to the costs incurred by the treasurer and the assessor; however, such costs shall not include any contingency fee paid to any person for the audit review and collection of such prior years' taxes as such contingency fees are prohibited. PRIOR TO BEING APPORTIONED, CREDITED, AND DISTRIBUTED, ALL TAXES SHALL BE REDUCED BY AN AMOUNT EQUAL TO AN ENTITY'S PRO RATA SHARE OF ANY TAX REFUNDS GRANTED SUBSEQUENT TO DISTRIBUTION BY THE TREASURER IF THE AMOUNT HAS NOT OTHERWISE BEEN RETURNED BY THE ENTITY; EXCEPT THAT THIS REQUIREMENT TO REDUCE TAXES SHALL NOT APPLY TO A CITY AND COUNTY. All delinquent interest shall be apportioned, credited, and distributed in the same manner.

SECTION 8. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: May 27, 2008