

## CHAPTER 89

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**GOVERNMENT - LOCAL**


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**HOUSE BILL 10-1107**

BY REPRESENTATIVE(S) Fischer, Ferrandino, Hullinghorst, Pommer, Court, Frangas, Kagan, Kefalas, Labuda, Looper, Merrifield, Sonnenberg, Todd, Vigil, Baumgardner, Gardner C., Middleton, Scanlan, Schafer S., Tyler; also SENATOR(S) Carroll M., Tochtrop, Bacon, Boyd, Harvey, Johnston, Lundberg, Morse, Newell, Sandoval, Schwartz, Steadman, White.

**AN ACT****CONCERNING LIMITATIONS ON THE INCLUSION OF AGRICULTURAL LANDS WITHIN URBAN RENEWAL AREAS.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 31-25-102, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**31-25-102. Legislative declaration.** (4) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT:

(a) URBAN RENEWAL AREAS CREATED FOR THE PURPOSES DESCRIBED IN SUBSECTIONS (1) AND (2) OF THIS SECTION SHALL NOT INCLUDE AGRICULTURAL LAND EXCEPT IN CONNECTION WITH THE LIMITED CIRCUMSTANCES DESCRIBED IN THIS PART 1; AND

(b) THE INCLUSION OF AGRICULTURAL LAND WITHIN URBAN RENEWAL AREAS IS A MATTER OF STATEWIDE CONCERN.

**SECTION 2.** 31-25-103 (1), Colorado Revised Statutes, is amended, and the said 31-25-103 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

**31-25-103. Definitions.** As used in this part 1, unless the context otherwise requires:

(1) ~~"Authority" or "urban renewal authority" means a corporate body organized~~

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

~~pursuant to the provisions of this part 1 for the purposes, with the powers, and subject to the restrictions set forth in this part 1.~~ "AGRICULTURAL LAND" MEANS ANY ONE PARCEL OF LAND OR ANY TWO OR MORE CONTIGUOUS PARCELS OF LAND THAT, REGARDLESS OF THE USES FOR WHICH THE LAND HAS BEEN ZONED, HAS BEEN CLASSIFIED BY THE COUNTY ASSESSOR AS AGRICULTURAL LAND FOR PURPOSES OF THE LEVYING AND COLLECTION OF PROPERTY TAX PURSUANT TO SECTIONS 39-1-102 (1.6) (a) AND 39-1-103 (5) (a), C.R.S., AT ANY TIME DURING THE FIVE-YEAR PERIOD PRIOR TO THE DATE OF ADOPTION OF AN URBAN RENEWAL PLAN OR ANY MODIFICATION OF SUCH A PLAN.

(3.1) "BROWNFIELD SITE" MEANS REAL PROPERTY, THE DEVELOPMENT, EXPANSION, REDEVELOPMENT, OR REUSE OF WHICH WILL BE COMPLICATED BY THE PRESENCE OF A SUBSTANTIAL AMOUNT OF ONE OR MORE HAZARDOUS SUBSTANCES, POLLUTANTS, OR CONTAMINANTS, AS DESIGNATED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY.

(7.5) "URBAN-LEVEL DEVELOPMENT" MEANS AN AREA IN WHICH THERE IS A PREDOMINANCE OF EITHER PERMANENT STRUCTURES OR ABOVE-GROUND OR AT-GRADE INFRASTRUCTURE.

(8.5) "URBAN RENEWAL AUTHORITY" OR "AUTHORITY" MEANS A CORPORATE BODY ORGANIZED PURSUANT TO THE PROVISIONS OF THIS PART 1 FOR THE PURPOSES, WITH THE POWERS, AND SUBJECT TO THE RESTRICTIONS SET FORTH IN THIS PART 1.

**SECTION 3.** 31-25-107 (1) (c), the introductory portion to 31-25-107 (3.5) (a), and 31-25-107 (9) (a) (II), (10) (a), and (11), Colorado Revised Statutes, are amended, and the said 31-25-107 (9) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

**31-25-107. Approval of urban renewal plans by local governing body.**  
(1) (c) (I) Except for urban renewal plans subject to section 31-25-103 (2) (I), the boundaries of an area that the governing body determines to be a blighted area shall be drawn as narrowly as the governing body determines feasible to accomplish the planning and development objectives of the proposed urban renewal area. The governing body shall not approve an urban renewal plan until a general plan for the municipality has been prepared. An authority shall not acquire real property for an urban renewal project unless the local governing body has approved the urban renewal plan in accordance with subsection (4) of this section. In making the determination as to whether a particular area is blighted pursuant to the provisions of this part 1, any particular condition found to be present may satisfy as many of the factors referenced in section 31-25-103 (2) as are applicable to such condition.

(II) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART 1, NO AREA THAT HAS BEEN DESIGNATED AS AN URBAN RENEWAL AREA SHALL CONTAIN ANY AGRICULTURAL LAND UNLESS:

(A) THE AGRICULTURAL LAND IS A BROWNFIELD SITE;

(B) NOT LESS THAN ONE-HALF OF THE URBAN RENEWAL AREA AS A WHOLE CONSISTS OF PARCELS OF LAND CONTAINING URBAN-LEVEL DEVELOPMENT THAT, AT THE TIME OF THE DESIGNATION OF SUCH AREA, ARE DETERMINED TO CONSTITUTE A

SLUM OR BLIGHTED AREA, OR A COMBINATION THEREOF, IN ACCORDANCE WITH THE REQUIREMENTS OF PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION AND NOT LESS THAN TWO-THIRDS OF THE PERIMETER OF THE URBAN RENEWAL AREA AS A WHOLE IS CONTIGUOUS WITH URBAN-LEVEL DEVELOPMENT AS DETERMINED AT THE TIME OF THE DESIGNATION OF SUCH AREA;

(C) THE AGRICULTURAL LAND IS AN ENCLAVE WITHIN THE TERRITORIAL BOUNDARIES OF A MUNICIPALITY AND THE ENTIRE PERIMETER OF THE ENCLAVE HAS BEEN CONTIGUOUS WITH URBAN-LEVEL DEVELOPMENT FOR A PERIOD OF NOT LESS THAN THREE YEARS AS DETERMINED AT THE TIME OF THE DESIGNATION OF THE AREA;

(D) EACH PUBLIC BODY THAT LEVIES AN AD VALOREM PROPERTY TAX ON THE AGRICULTURAL LAND AGREES IN WRITING TO THE INCLUSION OF THE AGRICULTURAL LAND WITHIN THE URBAN RENEWAL AREA; OR

(E) THE AGRICULTURAL LAND WAS INCLUDED IN AN APPROVED URBAN RENEWAL PLAN PRIOR TO THE EFFECTIVE DATE OF THIS SUBPARAGRAPH (II).

(III) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART 1, FOR A PERIOD COMMENCING ON THE EFFECTIVE DATE OF THIS SUBPARAGRAPH (III) AND CONCLUDING TEN YEARS FROM THE EFFECTIVE DATE OF THIS SUBPARAGRAPH (III) AND IN ADDITION TO THE PROVISIONS OF SUBPARAGRAPH (II) OF THIS PARAGRAPH (c), NO AREA THAT HAS BEEN DESIGNATED AS AN URBAN RENEWAL AREA SHALL CONTAIN ANY AGRICULTURAL LAND UNLESS:

(A) THE AGRICULTURAL LAND IS CONTIGUOUS WITH AN URBAN RENEWAL AREA IN EXISTENCE AS OF THE EFFECTIVE DATE OF THIS SUBPARAGRAPH (III);

(B) THE PERSON WHO IS THE FEE SIMPLE OWNER OF THE AGRICULTURAL LAND AS OF THE EFFECTIVE DATE OF THIS SUBPARAGRAPH (III) IS ALSO THE FEE SIMPLE OWNER OF LAND WITHIN THE URBAN RENEWAL AREA AS OF THE EFFECTIVE DATE OF THIS SUBPARAGRAPH (III) THAT IS CONTIGUOUS WITH THE AGRICULTURAL LAND; AND

(C) BOTH THE AGRICULTURAL LAND AND THE LAND WITHIN THE URBAN RENEWAL AREA THAT IS DESCRIBED IN SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (III) WILL BE DEVELOPED SOLELY FOR THE PURPOSE OF CREATING PRIMARY MANUFACTURING JOBS, AND ANY ANCILLARY JOBS NECESSARY TO SUPPORT SUCH MANUFACTURING OPERATIONS, FOR THE DURATION OF THE PERIOD DURING WHICH PROPERTY TAX REVENUES IN EXCESS OF A BASE AMOUNT ARE PAID INTO A SPECIAL FUND PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (a) OF SUBSECTION (9) OF THIS SECTION FOR THE PURPOSE OF FINANCING AN URBAN RENEWAL PROJECT. FOR PURPOSES OF THIS SUBPARAGRAPH (III), "PRIMARY MANUFACTURING JOBS" MEANS MANUFACTURING JOBS THAT PRODUCE PRODUCTS THAT ARE IN EXCESS OF THOSE THAT WILL BE CONSUMED WITHIN THE BOUNDARIES OF THE STATE AND THAT ARE EXPORTED TO OTHER STATES AND FOREIGN COUNTRIES IN EXCHANGE FOR VALUE.

(3.5) (a) At least thirty days prior to the hearing on an urban renewal plan or a substantial modification to such plan, REGARDLESS OF WHEN THE URBAN RENEWAL PLAN WAS FIRST APPROVED, the governing body or the authority shall submit such plan or modification to the board of county commissioners, and, if property taxes collected as a result of the county levy will be utilized, the governing body or the

authority shall also submit an urban renewal impact report, which shall include, at a minimum, the following information concerning the impact of such plan:

(9) (a) Notwithstanding any law to the contrary, any urban renewal plan, as originally approved or as later modified pursuant to this part 1, may contain a provision that taxes, if any, levied after the effective date of the approval of such urban renewal plan upon taxable property in an urban renewal area each year or that municipal sales taxes collected within said area, or both such taxes, by or for the benefit of any public body shall be divided for a period not to exceed twenty-five years after the effective date of adoption of such a provision, as follows:

(II) That portion of said property taxes or all or any portion of said sales taxes, or both, in excess of ~~such~~ THE AMOUNT OF PROPERTY TAXES OR SALES TAXES PAID INTO THE FUNDS OF EACH SUCH PUBLIC BODY IN ACCORDANCE WITH THE REQUIREMENTS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) shall be allocated to and, when collected, paid into a special fund of the authority to pay the principal of, the interest on, and any premiums due in connection with the bonds of, loans or advances to, or indebtedness incurred by, whether funded, refunded, assumed, or otherwise, ~~such~~ THE authority for financing or refinancing, in whole or in part, an urban renewal project, or to make payments under an agreement executed pursuant to subsection (11) of this section. Any excess municipal sales tax collections not allocated pursuant to this subparagraph (II) shall be paid into the funds of the municipality. Unless and until the total valuation for assessment of the taxable property in an urban renewal area exceeds the base valuation for assessment of the taxable property in such urban renewal area, as provided in subparagraph (I) of this paragraph (a), all of the taxes levied upon the taxable property in such urban renewal area shall be paid into the funds of the respective public bodies. Unless and until the total municipal sales tax collections in an urban renewal area exceed the base year municipal sales tax collections in such urban renewal area, as provided in subparagraph (I) of this paragraph (a), all such sales tax collections shall be paid into the funds of the municipality. When such bonds, loans, advances, and indebtedness, if any, including interest thereon and any premiums due in connection therewith, have been paid, all taxes upon the taxable property or the total municipal sales tax collections, or both, in such urban renewal area shall be paid into the funds of the respective public bodies.

(g) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, IF ONE OR MORE OF THE CONDITIONS SPECIFIED IN SUBPARAGRAPH (II), OR ALL OF THE CONDITIONS SPECIFIED IN SUBPARAGRAPH (III), OF PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION HAVE BEEN SATISFIED SUCH THAT AGRICULTURAL LAND IS INCLUDED WITHIN AN URBAN RENEWAL AREA, THE COUNTY ASSESSOR SHALL VALUE THE AGRICULTURAL LAND AT ITS FAIR MARKET VALUE IN MAKING THE CALCULATION OF THE TAXES TO BE PAID TO THE PUBLIC BODIES PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (9) SOLELY FOR THE PURPOSE OF DETERMINING THE TAX INCREMENT AVAILABLE PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS SUBSECTION (9). NOTHING IN THIS SECTION SHALL AFFECT THE ACTUAL CLASSIFICATION, OR REQUIRE RECLASSIFICATION, OF AGRICULTURAL LAND FOR PROPERTY TAX PURPOSES, AND NOTHING IN THIS SECTION SHALL AFFECT THE TAXES ACTUALLY TO BE PAID TO THE PUBLIC BODIES PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (9), WHICH SHALL CONTINUE TO BE BASED ON THE AGRICULTURAL CLASSIFICATION OF SUCH LAND UNLESS AND UNTIL IT HAS BEEN

RECLASSIFIED IN THE NORMAL COURSE OF THE ASSESSMENT PROCESS.

(h) THE MANNER AND METHODS BY WHICH THE REQUIREMENTS OF THIS SUBSECTION (9) ARE TO BE IMPLEMENTED BY COUNTY ASSESSORS SHALL BE CONTAINED IN SUCH MANUALS, APPRAISAL PROCEDURES, AND INSTRUCTIONS, AS APPLICABLE, THAT THE PROPERTY TAX ADMINISTRATOR IS AUTHORIZED TO PREPARE AND PUBLISH PURSUANT TO SECTION 39-2-109 (1) (e), C.R.S.

(10) The municipality in which an urban renewal authority has been established pursuant to the provisions of this part 1 shall timely notify the assessor of the county in which such authority has been established when:

(a) An urban renewal plan OR A SUBSTANTIAL MODIFICATION OF SUCH PLAN has been approved that contains the provision referenced in paragraph (a) of subsection (9) of this section OR A SUBSTANTIAL MODIFICATION OF THE PLAN ADDS LAND TO THE PLAN, WHICH PLAN CONTAINS THE PROVISION REFERENCED IN PARAGRAPH (a) OF SUBSECTION (9) OF THIS SECTION;

(11) The governing body or the authority may enter into an agreement with any county TAXING ENTITY within the boundaries of which property taxes collected as a result of the ~~county~~ TAXING ENTITY'S levy, or any portion of the levy, will be subject to allocation pursuant to subsection (9) of this section. The agreement may provide for the allocation of responsibility among the parties to the agreement for payment of the costs of any additional county infrastructure or services necessary to offset the impacts of an urban renewal project and for the sharing of revenues. Except with the consent of the governing body or the authority, any such shared revenues shall be limited to all or any portion of the taxes levied upon taxable property within the urban renewal area by the ~~county~~ TAXING ENTITY. THE AGREEMENT MAY PROVIDE FOR A WAIVER OF ANY PROVISION OF THIS PART 1 THAT PROVIDES FOR NOTICE TO THE TAXING ENTITY, REQUIRES ANY FILING WITH OR BY THE TAXING ENTITY, REQUIRES OR PERMITS CONSENT FROM THE TAXING ENTITY, OR PROVIDES ANY ENFORCEMENT RIGHT TO THE TAXING ENTITY.

**SECTION 4.** 31-25-107 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**31-25-107. Approval of urban renewal plans by local governing body.**

(1) (d) IN THE CASE OF AN URBAN RENEWAL PLAN APPROVED OR SUBSTANTIALLY MODIFIED ON OR AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH (d), THE PLAN SHALL INCLUDE A LEGAL DESCRIPTION OF THE URBAN RENEWAL AREA, INCLUDING THE LEGAL DESCRIPTION OF ANY AGRICULTURAL LAND PROPOSED FOR INCLUSION WITHIN THE URBAN RENEWAL AREA PURSUANT TO THE CONDITIONS SPECIFIED IN SUBPARAGRAPH (II) OR (III) OF PARAGRAPH (c) OF THIS SUBSECTION (1).

**SECTION 5.** 31-25-107 (3.5), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**31-25-107. Approval of urban renewal plans by local governing body.**

(3.5) (c) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, A CITY AND COUNTY SHALL NOT BE REQUIRED TO SUBMIT AN URBAN RENEWAL IMPACT REPORT SATISFYING THE REQUIREMENTS OF PARAGRAPH (a) OF THIS SUBSECTION (3.5).

**SECTION 6.** 31-25-107, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**31-25-107. Approval of urban renewal plans by local governing body.**

(13) NOT LATER THAN THIRTY DAYS AFTER THE MUNICIPALITY HAS PROVIDED THE COUNTY ASSESSOR THE NOTICE REQUIRED BY PARAGRAPH (a) OF SUBSECTION (10) OF THIS SECTION, THE COUNTY ASSESSOR MAY PROVIDE WRITTEN NOTICE TO THE MUNICIPALITY IF THE ASSESSOR BELIEVES THAT AGRICULTURAL LAND HAS BEEN IMPROPERLY INCLUDED IN THE URBAN RENEWAL AREA IN VIOLATION OF SUBPARAGRAPH (II) OR (III) OF PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION. IF THE NOTICE IS NOT DELIVERED WITHIN THE THIRTY-DAY PERIOD, THE INCLUSION OF THE LAND IN THE URBAN RENEWAL AREA AS DESCRIBED IN THE URBAN RENEWAL PLAN SHALL BE INCONTESTABLE IN ANY SUIT OR PROCEEDING NOTWITHSTANDING THE PRESENCE OF ANY CAUSE. IF THE ASSESSOR PROVIDES NOTICE TO THE MUNICIPALITY WITHIN THE THIRTY-DAY PERIOD, THE MUNICIPALITY MAY FILE AN ACTION IN STATE DISTRICT COURT EXERCISING JURISDICTION OVER THE COUNTY IN WHICH THE LAND IS LOCATED FOR AN ORDER DETERMINING WHETHER THE INCLUSION OF THE LAND IN THE URBAN RENEWAL AREA IS CONSISTENT WITH ONE OF THE CONDITIONS SPECIFIED IN SUBPARAGRAPH (II) OR (III) OF PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION AND SHALL HAVE AN ADDITIONAL THIRTY DAYS FROM THE DATE IT RECEIVES THE NOTICE IN WHICH TO FILE SUCH ACTION. IF THE MUNICIPALITY FAILS TO FILE SUCH AN ACTION WITHIN THE ADDITIONAL THIRTY-DAY PERIOD, THE AGRICULTURAL LAND SHALL NOT BECOME PART OF THE URBAN RENEWAL AREA.

**SECTION 7. Specified effective date - applicability.** This act shall take effect June 1, 2010, and shall apply to urban renewal plans approved or substantially modified on or after said date.

**SECTION 8. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 14, 2010