

**Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 10-0078.01 Bob Lackner

HOUSE BILL 10-1107

HOUSE SPONSORSHIP

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Agriculture, Livestock, & Natural Resources

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A BILL FOR AN ACT

101 **CONCERNING LIMITATIONS ON THE INCLUSION OF AGRICULTURAL**
102 **LANDS WITHIN URBAN RENEWAL AREAS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Section 3 of the bill prohibits any area that has been designated as an urban renewal area from containing any agricultural land unless:

- ! The agricultural land is a brownfield site as designated by the United States environmental protection agency;
- ! The area containing the agricultural land is at least

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

HOUSE
Amended 2nd Reading
February 5, 2010

two-thirds contiguous with urban-level development and at least one-half of the area consists of urban-level development that is determined to constitute a slum or blighted area;

- ! 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 3 years;
- ! 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
- ! The agricultural land was included in an approved urban renewal plan prior to the effective date of the bill.

In addition, section 3 of the bill:

- ! Where agricultural land is included within an urban renewal area under the conditions specified in the bill, requires the county assessor to value the agricultural land at its fair market value solely for determining the base amount of taxes to be paid to the public bodies without consideration of the tax increment. Nothing in the bill affects the actual classification of agricultural land for property tax purposes.
- ! Expands the grounds allowing counties to challenge information contained in urban renewal impact reports.
- ! Permits the required agreement to be entered into by or among the municipality and urban renewal authority and county taxing entities in the case of tax increment financing to provide for a waiver of certain requirements under the urban renewal law.

Section 4 of the bill requires urban renewal plans to 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 the bill.

Section 5 of the bill provides that, not later than 30 days after the municipality has provided the county assessor notice that the urban renewal plan contains tax increment financing provisions, the assessor may provide written notice to the municipality if the assessor believes that agricultural land has been improperly included in the urban renewal area under the conditions specified in the bill. If the notice is not delivered within the 30-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 written notice to the municipality within the 30-day period, the municipality may file an action in state district court for an order determining whether the inclusion of the land in the urban renewal

area is consistent with one of the conditions specified in the bill and shall have an additional 30 days from the date it receives the notice in which to file the action. If the municipality fails to file such an action within the additional 30-day period, the urban renewal area shall not include the agricultural land.

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

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

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

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

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

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

15 **31-25-103. Definitions.** As used in this part 1, unless the context
16 otherwise requires:

17 (1) ~~"Authority" or "urban renewal authority" means a corporate~~
18 ~~body organized pursuant to the provisions of this part 1 for the purposes,~~
19 ~~with the powers, and subject to the restrictions set forth in this part 1.~~

20 "AGRICULTURAL LAND" MEANS ANY ONE PARCEL OF LAND OR ANY TWO OR
21 MORE CONTIGUOUS PARCELS OF LAND THAT, REGARDLESS OF THE USES FOR
22 WHICH THE LAND HAS BEEN ZONED, HAS BEEN CLASSIFIED BY THE COUNTY
23 ASSESSOR AS AGRICULTURAL LAND FOR PURPOSES OF THE LEVYING AND

1 COLLECTION OF PROPERTY TAX PURSUANT TO SECTIONS 39-1-102 (1.6) (a)
2 AND 39-1-103 (5) (a), C.R.S., AT ANY TIME DURING THE FIVE-YEAR PERIOD
3 PRIOR TO THE DATE OF ADOPTION OF AN URBAN RENEWAL PLAN OR ANY
4 MODIFICATION OF SUCH A PLAN.

5 (3.1) "BROWNFIELD SITE" MEANS REAL PROPERTY, THE
6 DEVELOPMENT, EXPANSION, REDEVELOPMENT, OR REUSE OF WHICH WILL
7 BE COMPLICATED BY THE PRESENCE OF A SUBSTANTIAL AMOUNT OF ONE OR
8 MORE HAZARDOUS SUBSTANCES, POLLUTANTS, OR CONTAMINANTS, AS
9 DESIGNATED BY THE UNITED STATES ENVIRONMENTAL PROTECTION
10 AGENCY.

11 (7.5) "URBAN-LEVEL DEVELOPMENT" MEANS AN AREA IN WHICH
12 THERE IS A PREDOMINANCE OF EITHER PERMANENT STRUCTURES OR
13 ABOVE-GROUND OR AT-GRADE INFRASTRUCTURE.

14 (8.5) "URBAN RENEWAL AUTHORITY" OR "AUTHORITY" MEANS A
15 CORPORATE BODY ORGANIZED PURSUANT TO THE PROVISIONS OF THIS PART
16 1 FOR THE PURPOSES, WITH THE POWERS, AND SUBJECT TO THE
17 RESTRICTIONS SET FORTH IN THIS PART 1.

18 **SECTION 3.** 31-25-107 (1) (c), the introductory portion to
19 31-25-107 (3.5) (a), 31-25-107 (9) (a) (II), (10) (a), and (11), Colorado
20 Revised Statutes, are amended, and the said 31-25-107 (9) is further
21 amended BY THE ADDITION OF THE FOLLOWING NEW
22 PARAGRAPHS, to read:

23 **31-25-107. Approval of urban renewal plans by local**
24 **governing body.** (1) (c) (I) Except for urban renewal plans subject to
25 section 31-25-103 (2) (I), the boundaries of an area that the governing
26 body determines to be a blighted area shall be drawn as narrowly as the
27 governing body determines feasible to accomplish the planning and

1 development objectives of the proposed urban renewal area. The
2 governing body shall not approve an urban renewal plan until a general
3 plan for the municipality has been prepared. An authority shall not acquire
4 real property for an urban renewal project unless the local governing body
5 has approved the urban renewal plan in accordance with subsection (4) of
6 this section. In making the determination as to whether a particular area
7 is blighted pursuant to the provisions of this part 1, any particular
8 condition found to be present may satisfy as many of the factors
9 referenced in section 31-25-103 (2) as are applicable to such condition.

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

13 (A) THE AGRICULTURAL LAND IS A BROWNFIELD SITE;

14 (B) NOT LESS THAN ONE-HALF OF THE URBAN RENEWAL AREA AS
15 A WHOLE CONSISTS OF PARCELS OF LAND CONTAINING URBAN-LEVEL
16 DEVELOPMENT THAT, AT THE TIME OF THE DESIGNATION OF SUCH AREA,
17 ARE DETERMINED TO CONSTITUTE A SLUM OR BLIGHTED AREA, OR A
18 COMBINATION THEREOF, IN ACCORDANCE WITH THE REQUIREMENTS OF
19 PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION AND NOT LESS THAN
20 TWO-THIRDS OF THE PERIMETER OF THE URBAN RENEWAL AREA AS A
21 WHOLE IS CONTIGUOUS WITH URBAN-LEVEL DEVELOPMENT AS DETERMINED
22 AT THE TIME OF THE DESIGNATION OF SUCH AREA;

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

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

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

7 (3.5) (a) At least thirty days prior to the hearing on an urban
8 renewal plan or a substantial modification to such plan, REGARDLESS OF
9 WHEN THE URBAN RENEWAL PLAN WAS FIRST APPROVED, the governing
10 body or the authority shall submit such plan or modification to the board
11 of county commissioners, and, if property taxes collected as a result of the
12 county levy will be utilized, the governing body or the authority shall also
13 submit an urban renewal impact report, which shall include, at a
14 minimum, the following information concerning the impact of such plan:

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

23 (II) That portion of said property taxes or all or any portion of said
24 sales taxes, or both, in excess of ~~such~~ THE AMOUNT OF PROPERTY TAXES OR
25 SALES TAXES PAID INTO THE FUNDS OF EACH SUCH PUBLIC BODY IN
26 ACCORDANCE WITH THE REQUIREMENTS OF SUBPARAGRAPH (I) OF THIS
27 PARAGRAPH (a) shall be allocated to and, when collected, paid into a

1 special fund of the authority to pay the principal of, the interest on, and
2 any premiums due in connection with the bonds of, loans or advances to,
3 or indebtedness incurred by, whether funded, refunded, assumed, or
4 otherwise, ~~such~~ THE authority for financing or refinancing, in whole or in
5 part, an urban renewal project, or to make payments under an agreement
6 executed pursuant to subsection (11) of this section. Any excess
7 municipal sales tax collections not allocated pursuant to this subparagraph
8 (II) shall be paid into the funds of the municipality. Unless and until the
9 total valuation for assessment of the taxable property in an urban renewal
10 area exceeds the base valuation for assessment of the taxable property in
11 such urban renewal area, as provided in subparagraph (I) of this paragraph
12 (a), all of the taxes levied upon the taxable property in such urban renewal
13 area shall be paid into the funds of the respective public bodies. Unless
14 and until the total municipal sales tax collections in an urban renewal area
15 exceed the base year municipal sales tax collections in such urban renewal
16 area, as provided in subparagraph (I) of this paragraph (a), all such sales
17 tax collections shall be paid into the funds of the municipality. When such
18 bonds, loans, advances, and indebtedness, if any, including interest
19 thereon and any premiums due in connection therewith, have been paid,
20 all taxes upon the taxable property or the total municipal sales tax
21 collections, or both, in such urban renewal area shall be paid into the
22 funds of the respective public bodies.

23 (g) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, IF
24 ONE OR MORE OF THE CONDITIONS SPECIFIED IN SUBPARAGRAPH (II) OF
25 PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION HAS BEEN SATISFIED
26 SUCH THAT AGRICULTURAL LAND IS INCLUDED WITHIN AN URBAN RENEWAL
27 AREA, THE COUNTY ASSESSOR SHALL VALUE THE AGRICULTURAL LAND AT

1 ITS FAIR MARKET VALUE SOLELY FOR DETERMINING THE TAXES TO BE PAID
2 TO THE PUBLIC BODIES PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (a)
3 OF THIS SUBSECTION (9). NOTHING IN THIS SECTION SHALL AFFECT THE
4 ACTUAL CLASSIFICATION OF AGRICULTURAL LAND FOR PROPERTY TAX
5 PURPOSES.

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

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

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

22 (11) The governing body or the authority may enter into an
23 agreement with any county TAXING ENTITY within the boundaries of which
24 property taxes collected as a result of the ~~county~~ TAXING ENTITY'S levy, or
25 any portion of the levy, will be subject to allocation pursuant to subsection
26 (9) of this section. The agreement may provide for the allocation of
27 responsibility among the parties to the agreement for payment of the costs

1 of any additional county infrastructure or services necessary to offset the
2 impacts of an urban renewal project and for the sharing of revenues.
3 Except with the consent of the governing body or the authority, any such
4 shared revenues shall be limited to all or any portion of the taxes levied
5 upon taxable property within the urban renewal area by the ~~county~~ TAXING
6 ENTITY. THE AGREEMENT MAY PROVIDE FOR A WAIVER OF ANY PROVISION
7 OF THIS PART 1 THAT PROVIDES FOR NOTICE TO THE TAXING ENTITY,
8 REQUIRES ANY FILING WITH OR BY THE TAXING ENTITY, REQUIRES OR
9 PERMITS CONSENT FROM THE TAXING ENTITY, OR PROVIDES ANY
10 ENFORCEMENT RIGHT TO THE TAXING ENTITY.

11

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

14 **31-25-107. Approval of urban renewal plans by local**
15 **governing body.** (1) (d) IN THE CASE OF AN URBAN RENEWAL PLAN
16 APPROVED OR SUBSTANTIALLY MODIFIED ON OR AFTER THE EFFECTIVE
17 DATE OF THIS PARAGRAPH (d), THE PLAN SHALL INCLUDE A LEGAL
18 DESCRIPTION OF THE URBAN RENEWAL AREA, INCLUDING THE LEGAL
19 DESCRIPTION OF ANY AGRICULTURAL LAND PROPOSED FOR INCLUSION
20 WITHIN THE URBAN RENEWAL AREA PURSUANT TO THE CONDITIONS
21 SPECIFIED IN SUBPARAGRAPH (II) OF PARAGRAPH (c) OF THIS SUBSECTION
22 (1).

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

25 **31-25-107. Approval of urban renewal plans by local**
26 **governing body.** (3.5) (c) NOTWITHSTANDING ANY OTHER PROVISION OF
27 THIS SECTION, A CITY AND COUNTY SHALL NOT BE REQUIRED TO SUBMIT AN

1 URBAN RENEWAL IMPACT REPORT SATISFYING THE REQUIREMENTS OF
2 PARAGRAPH (a) OF THIS SUBSECTION (3.5).

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

5 **31-25-107. Approval of urban renewal plans by local**
6 **governing body.** (13) NOT LATER THAN THIRTY DAYS AFTER THE
7 MUNICIPALITY HAS PROVIDED THE COUNTY ASSESSOR THE NOTICE
8 REQUIRED BY PARAGRAPH (a) OF SUBSECTION (10) OF THIS SECTION, THE
9 COUNTY ASSESSOR MAY PROVIDE WRITTEN NOTICE TO THE MUNICIPALITY
10 IF THE ASSESSOR BELIEVES THAT AGRICULTURAL LAND HAS BEEN
11 IMPROPERLY INCLUDED IN THE URBAN RENEWAL AREA IN VIOLATION OF
12 SUBPARAGRAPH (II) OF PARAGRAPH (c) OF SUBSECTION (1) OF THIS
13 SECTION. IF THE NOTICE IS NOT DELIVERED WITHIN THE THIRTY-DAY
14 PERIOD, THE INCLUSION OF THE LAND IN THE URBAN RENEWAL AREA AS
15 DESCRIBED IN THE URBAN RENEWAL PLAN SHALL BE INCONTESTABLE IN
16 ANY SUIT OR PROCEEDING NOTWITHSTANDING THE PRESENCE OF ANY
17 CAUSE. IF THE ASSESSOR PROVIDES NOTICE TO THE MUNICIPALITY WITHIN
18 THE THIRTY-DAY PERIOD, THE MUNICIPALITY MAY FILE AN ACTION IN STATE
19 DISTRICT COURT EXERCISING JURISDICTION OVER THE COUNTY IN WHICH
20 THE LAND IS LOCATED FOR AN ORDER DETERMINING WHETHER THE
21 INCLUSION OF THE LAND IN THE URBAN RENEWAL AREA IS CONSISTENT
22 WITH ONE OF THE CONDITIONS SPECIFIED IN SUBPARAGRAPH (II) OF
23 PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION AND SHALL HAVE AN
24 ADDITIONAL THIRTY DAYS FROM THE DATE IT RECEIVES THE NOTICE IN
25 WHICH TO FILE SUCH ACTION. IF THE MUNICIPALITY FAILS TO FILE SUCH AN
26 ACTION WITHIN THE ADDITIONAL THIRTY-DAY PERIOD, THE AGRICULTURAL
27 LAND SHALL NOT BECOME PART OF THE URBAN RENEWAL AREA.

1 **SECTION 7. Act subject to petition - effective date -**

2 **applicability.** (1) This act shall take effect at 12:01 a.m. on the day
3 following the expiration of the ninety-day period after final adjournment
4 of the general assembly (August 11, 2010, if adjournment sine die is on
5 May 12, 2010); except that, if a referendum petition is filed pursuant to
6 section 1 (3) of article V of the state constitution against this act or an
7 item, section, or part of this act within such period, then the act, item,
8 section, or part shall not take effect unless approved by the people at the
9 general election to be held in November 2010 and shall take effect on the
10 date of the official declaration of the vote thereon by the governor.

11 (2) The provisions of this act shall apply to urban renewal plans
12 approved or substantially modified on or after the applicable effective date
13 of this act.