

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 17-0966.01 Bob Lackner x4350

SENATE BILL 17-279

SENATE SPONSORSHIP

Zenzinger and Martinez Humenik,

HOUSE SPONSORSHIP

Beckman and Gray,

Senate Committees

Local Government

House Committees

A BILL FOR AN ACT

101 CONCERNING CLARIFICATION OF THE APPLICABILITY PROVISIONS OF
102 RECENT LEGISLATION TO PROMOTE AN EQUITABLE FINANCIAL
103 CONTRIBUTION AMONG AFFECTED PUBLIC BODIES IN
104 CONNECTION WITH URBAN REDEVELOPMENT PROJECTS
105 ALLOCATING TAX REVENUES.

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://leg.colorado.gov>.)

The bill clarifies the applicability provisions of legislation enacted in 2015 and 2016 to promote an equitable financial contribution among

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.

affected public bodies in connection with urban redevelopment projects allocating tax revenues in the following respects:

- ! The bill clarifies that a substantial modification of an urban renewal plan (plan) is a proposed modification that substantially changes provisions of the plan regarding land area, land use, authorization to collect incremental tax revenue, the extent of the use of tax increment financing, the scope or nature of the urban renewal project, the scope of method of financing, design, building requirements, timing, or procedure, as previously approved, or where the modification will substantially clarify a plan that, when approved, was lacking in specificity as to the urban renewal project or financing. If the modification is substantial, the modification is subject to pertinent requirements of the urban renewal law addressing modifications. For plans to which a pledge of the revenues deposited into the special fund was made by an indenture or other legally binding document that is separate from the plan itself prior to January 1, 2016, a pledge to secure the payment of refunding bonds is not a substantial modification and is not subject to the modification requirements of the urban renewal law.
- ! Not less than 30 days prior to approving any modification of a plan, the bill requires the governing body or an urban renewal authority (authority) to provide a detailed written description of the proposed modification to each taxing entity that levies taxes on property located within the urban renewal area and a notice of the date and time of the meeting at which the governing body will consider the modification. Any taxing entity that levies taxes on property located within the urban renewal area may file an action in the state district court exercising jurisdiction over the county in which the urban renewal area is located for an order determining, under a de novo standard of review, whether the modification is a substantial modification. Further, if requested by the taxing entity, the court is required to enjoin any action by the authority pursuant to the modification until the court has determined whether the modification is a substantial modification and, if so, the court is required to further enjoin any action by the authority until there has been compliance with statutory provisions addressing the sharing of incremental property tax revenues.
- ! The bill prohibits any action from being brought to enjoin any undertaking or activity of the authority to a plan,

including the issuance of bonds, the incurrence of other financial obligations, or the pledge of revenue, unless the action is commenced within 45 days after the date the authority provided notice of its intention regarding such undertaking or activity. The notice must describe the undertaking or activity proposed to be engaged in by the authority and specify that any action to enjoin the undertaking or activity must be brought within 45 days from the date of the notice. The notice must be published one time in a newspaper of general circulation within the county. On or before the date of publication of the notice, the bill also requires the authority to mail a copy of the notice to each taxing entity that levies taxes on property within the urban renewal area.

! Finally, the bill clarifies that legislation enacted in 2015 to promote an equitable financial contribution among affected public bodies in connection with urban redevelopment projects allocating tax revenues, legislation adopted in 2016 to clarify such 2015 legislation, and the bill apply to municipalities, authorities, and any plans created on or after January 1, 2016, and to any substantial modification of any plan approved on or after January 1, 2016.

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

2 **SECTION 1.** In Colorado Revised Statutes, 31-25-107, **amend**
3 (7) and (9.7); and **add** (7.5) as follows:

4 **31-25-107. Approval of urban renewal plans by local**
5 **governing body - definition.** (7) An urban renewal plan may be
6 modified at any time; but, if modified after the lease or sale by the
7 authority of real property in the urban renewal project area, such
8 modification shall be subject to such rights at law or in equity as a lessee
9 or purchaser or his successor in interest may be entitled to assert. Any
10 proposed modification shall be submitted to the governing body for a
11 ~~resolution as to whether or not such~~ APPROVAL. IF THE modification will
12 substantially change PROVISIONS OF the urban renewal plan ~~in~~ REGARDING
13 land area, land use, AUTHORIZATION TO COLLECT INCREMENTAL TAX

1 REVENUE, THE EXTENT OF THE USE OF TAX INCREMENT FINANCING, THE
2 SCOPE OR NATURE OF THE URBAN RENEWAL PROJECT, THE SCOPE OR
3 METHOD OF FINANCING, design, building requirements, timing, or
4 procedure, as previously approved, ~~and, if it finds that there will be a~~
5 ~~substantial change, its approval of such~~ OR WHERE SUCH MODIFICATION
6 WILL SUBSTANTIALLY CLARIFY A PLAN THAT, WHEN APPROVED, WAS
7 LACKING IN SPECIFICITY AS TO THE URBAN RENEWAL PROJECT OR
8 FINANCING, THEN THE modification ~~shall be~~ IS SUBSTANTIAL AND subject
9 to ALL OF the requirements of this section. FOR URBAN RENEWAL PLANS
10 IN WHICH A PLEDGE OF THE REVENUES DEPOSITED INTO THE SPECIAL FUND
11 CREATED PURSUANT TO SUBSECTION (9) OF THIS SECTION WAS MADE BY
12 AN INDENTURE OR OTHER LEGALLY BINDING DOCUMENT THAT IS SEPARATE
13 FROM THE PLAN ITSELF PRIOR TO JANUARY 1, 2016, A PLEDGE TO SECURE
14 THE PAYMENT OF REFUNDING BONDS IS NOT A SUBSTANTIAL MODIFICATION
15 AND IS NOT SUBJECT TO THE REQUIREMENTS OF THIS SUBSECTION (7). NOT
16 LESS THAN THIRTY DAYS PRIOR TO APPROVING ANY MODIFICATION OF AN
17 URBAN RENEWAL PLAN, THE GOVERNING BODY OR URBAN RENEWAL
18 AUTHORITY SHALL PROVIDE A DETAILED WRITTEN DESCRIPTION OF THE
19 PROPOSED MODIFICATION TO EACH TAXING ENTITY THAT LEVIES TAXES ON
20 PROPERTY LOCATED WITHIN THE URBAN RENEWAL AREA AND A NOTICE OF
21 THE DATE AND TIME OF THE MEETING AT WHICH THE GOVERNING BODY
22 WILL CONSIDER THE MODIFICATION. ANY TAXING ENTITY THAT LEVIES
23 TAXES ON PROPERTY LOCATED WITHIN THE URBAN RENEWAL AREA MAY
24 FILE AN ACTION IN THE STATE DISTRICT COURT EXERCISING JURISDICTION
25 OVER THE COUNTY IN WHICH THE URBAN RENEWAL AREA IS LOCATED FOR
26 AN ORDER DETERMINING, UNDER A DE NOVO STANDARD OF REVIEW,
27 WHETHER THE MODIFICATION IS A SUBSTANTIAL MODIFICATION. FURTHER,

1 IF REQUESTED BY THE TAXING ENTITY, THE COURT SHALL ENJOIN ANY
2 ACTION BY THE AUTHORITY PURSUANT TO THE MODIFICATION UNTIL THE
3 COURT HAS DETERMINED WHETHER THE MODIFICATION IS A SUBSTANTIAL
4 MODIFICATION AND, IF SO, SHALL FURTHER ENJOIN ANY ACTION BY THE
5 AUTHORITY UNTIL THERE HAS BEEN COMPLIANCE WITH SUBSECTION (9.5)
6 OF THIS SECTION.

7 (7.5) NO ACTION MAY BE BROUGHT TO ENJOIN ANY UNDERTAKING
8 OR ACTIVITY OF THE AUTHORITY PURSUANT TO AN URBAN RENEWAL PLAN,
9 INCLUDING THE ISSUANCE OF BONDS, THE INCURRENCE OF OTHER
10 FINANCIAL OBLIGATIONS, OR THE PLEDGE OF REVENUE, UNLESS THE
11 ACTION IS COMMENCED WITHIN FORTY-FIVE DAYS AFTER THE DATE ON
12 WHICH THE AUTHORITY PROVIDED NOTICE OF ITS INTENTION REGARDING
13 SUCH UNDERTAKING OR ACTIVITY. THE NOTICE MUST DESCRIBE THE
14 UNDERTAKING OR ACTIVITY PROPOSED TO BE ENGAGED IN BY THE
15 AUTHORITY AND SPECIFY THAT ANY ACTION TO ENJOIN THE UNDERTAKING
16 OR ACTIVITY MUST BE BROUGHT WITHIN FORTY-FIVE DAYS FROM THE DATE
17 OF THE NOTICE. THE NOTICE MUST BE PUBLISHED ONE TIME IN A
18 NEWSPAPER OF GENERAL CIRCULATION WITHIN THE COUNTY. ON OR
19 BEFORE THE DATE OF PUBLICATION OF THE NOTICE, THE AUTHORITY SHALL
20 ALSO MAIL A COPY OF THE NOTICE TO EACH TAXING ENTITY THAT LEVIES
21 TAXES ON PROPERTY WITHIN THE URBAN RENEWAL AREA.

22 (9.7) Notwithstanding any other provision of law:

23 (a) Nothing in subsection (9.5) of this section, as added by House
24 Bill 15-1348, enacted in 2015, and as amended by Senate Bill 16-177,
25 enacted in 2016, is intended to impair, jeopardize, or put at risk any
26 existing bonds, investments, loans, contracts, or financial obligations of
27 an urban renewal authority outstanding as of December 31, 2015, or the

1 pledge of pledged revenues or assets to the payment thereof that occurred
2 on or before December 31, 2015.

3 (b) THE REQUIREMENTS OF SECTION 31-25-104 (2)(a), (2)(b), AND
4 (2.5), SECTION 31-25-115 (1.5), THE INTRODUCTORY PORTION OF
5 SUBSECTION (9)(a) OF THIS SECTION, SUBSECTIONS (9)(a)(II), (9)(i), AND
6 (9.5) OF THIS SECTION, AS ADDED BY HOUSE BILL 15-1348, ENACTED IN
7 2015, AND AS AMENDED BY SENATE BILL 16-177, ENACTED IN 2016, AND
8 THE REQUIREMENTS OF SUBSECTIONS (7) AND (7.5) OF THIS SECTION AS
9 AMENDED BY SENATE BILL 17-___, ENACTED IN 2017, APPLY TO
10 MUNICIPALITIES, URBAN RENEWAL AUTHORITIES, AND ANY URBAN
11 RENEWAL PLANS CREATED ON OR AFTER JANUARY 1, 2016, AND TO ANY
12 SUBSTANTIAL MODIFICATION OF ANY URBAN RENEWAL PLAN WHERE THE
13 MODIFICATION IS APPROVED ON OR AFTER JANUARY 1, 2016.

14 **SECTION 2. Safety clause.** The general assembly hereby finds,
15 determines, and declares that this act is necessary for the immediate
16 preservation of the public peace, health, and safety.