



Important Statutory Provisions Counties Need To Know When Negotiating with Urban Renewal Authorities

1.) a.) **Required negotiation** for new urban renewal plans (adopted on or after January 1, 2016) and modifications to existing plans.

b.) Counties can also choose whether or not to include any of their incremental sales tax revenue

CRS 31-25-107 (9.5) (a) Before any urban renewal plan containing any tax allocation provisions that allocates any taxes of any taxing entity other than the municipality may be approved by the municipal governing body pursuant to subsection (4) of this section, the authority shall notify the board of county commissioners of each county and the governing boards of each other taxing entity whose incremental property tax revenues would be allocated under such proposed plan. **Representatives of the authority and the governing body of each taxing entity shall then meet and attempt to negotiate an agreement governing the sharing of incremental property tax revenue allocated to the special fund** of the authority established in accordance with subparagraph (II) of paragraph (a) of subsection (9) of this section. The agreement must address, without limitation, estimated impacts of the urban renewal plan on county or district services associated solely with the urban renewal plan. The agreement may be entered into separately among the authority and each such taxing entity, or through a joint agreement among the authority and any taxing entity that has chosen to enter that agreement. Any such shared incremental tax revenues governed by any agreement are limited to all or any portion of the incremental revenue generated by the taxes levied upon taxable property by the taxing entity within the area covered by the urban renewal plan in addition to any incremental sales tax revenues generated within the area covered by the urban renewal plan by the imposition of the sales tax of the municipality **and, at the option of any other taxing entity levying a sales tax in the area covered by the urban renewal plan**, any incremental sales tax revenues of such other taxing entity that are included within the agreement.

(b) The agreement described in paragraph (a) of this subsection (9.5) 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.

2.) **Negotiations can continue beyond 120 days**

CRS 31-25-107 (9.5) (c) If, after a period of one hundred twenty days from the date of notice **or such longer or shorter period as the authority and any taxing entity may agree**, there is no agreement between the authority and any taxing entity as described in paragraph (a) of this subsection (9.5), the authority and any applicable taxing entity are subject to the provisions and limitations of paragraph (d) of this subsection (9.5).

3.) **If a negotiation cannot be reached, mediation is the next step**

CRS 31-25-107 (9.5) (d) (I) In an absence of an agreement between the authority and any taxing entity as described in paragraph (a) of this subsection (9.5), the parties must submit to mediation on the issue of appropriate sharing of incremental property tax revenues and urban renewal project costs among the authority and any such taxing entities whose incremental property tax revenues will be allocated pursuant to an urban renewal plan and with whom an intergovernmental agreement with the authority has not been reached.

(II) The mediation required by subparagraph (I) of this paragraph (d) must be conducted by a mediator who has been jointly selected by the parties; except that, if the parties are unable to agree on the selection of a mediator, then the authority shall select one mediator, the other parties shall select a second mediator, and these two mediators shall then select a third mediator. In such circumstances, the mediation will be jointly conducted by the three mediators. Unless all parties otherwise agree, any mediator selected pursuant to this paragraph (d) must be an attorney licensed in the state for at least ten years and must be experienced in both land use and administrative law. Payment of the fees and costs for the mediation must be split equally between or among the parties.

(III) In making a determination of the appropriate sharing, the mediator must consider the nature of the project, the nature and relative size of the revenue and other benefits that are expected to accrue to the municipality and other taxing entities as a result of the project, any legal limitations on the use of revenues belonging to the authority or any taxing entity, and any capital or operating costs that are expected to result from the project. Within ninety days, the mediator must issue his or her findings of fact as to the appropriate sharing of costs and incremental property tax revenues, and shall promptly transmit such information to the parties. With respect to the use of incremental property tax revenues of each other taxing entity, following the issuance of findings by the mediator, the governing body of the municipality shall:

(A) Incorporate the mediator's findings on the use of incremental property tax revenues of any taxing body into the urban renewal plan and proceed to adopt the plan;

(B) Amend the urban renewal plan to delete authorization of the use of the incremental property tax revenues of any taxing body with whom an agreement has not been reached; or

(C) Direct the authority to either incorporate the mediator's findings into one or more intergovernmental agreements with other taxing entities or to enter into new negotiations with one or more taxing entities and to enter into one or more intergovernmental agreements with such taxing entities that incorporate such new or different provisions concerning the sharing of costs and incremental property tax revenues with which the parties are in agreement.

(e) Notwithstanding any other provision of law, no incremental property tax revenues may be allocated and paid into the special fund of the authority in accordance with subparagraph (II) of paragraph (a) of subsection (9) of this section unless the municipality or the authority has satisfied the requirements of this subsection (9.5).

4.) **Non-municipal representation on urban renewal authority boards** when a new plan is adopted (on or after January 1, 2016) and when modifications to existing plans occur.

CRS 31-25-104 (2.5) When the governing body of a municipality designates itself as the authority or transfers an existing authority to the governing body pursuant to [section 31-25-115 \(1\)](#), an authority consists of the same number of commissioners as the number of members of the governing body. In addition, in order to represent the collective interests of the county and all taxing bodies levying a mill levy within the boundaries of the urban renewal authority area other than the municipality, **one additional commissioner on the authority must be appointed by the board of county commissioners of the county in which the territorial boundaries of the urban renewal authority area are located, one additional commissioner must also be a board member of a special district selected by agreement of the special districts levying a mill levy within the boundaries of the urban renewal authority area, and one additional commissioner must also be an elected member of a board of education of a school district levying a mill levy within the boundaries of the urban renewal authority area.** If the number of members of the governing body causes the authority to have an even number of commissioners, the mayor shall appoint an additional commissioner to restore an odd number of commissioners to the authority. As applicable, the appointment of the county, special district, and school district representatives on the authority pursuant to this subsection (2.5) must be made in accordance with the procedures specified in subsection (2) of this section.

5.) **County lodging tax cannot be used to support urban renewal activities**

CRS 30-11-107.5 (1) In accordance with the procedures set forth in this section, the board of county commissioners of each county, **for the purpose of advertising and marketing local tourism**, may levy a county lodging tax of not more than two percent on the purchase price paid or charged to persons for rooms or accommodations as included in the definition of "sale" in [section 39-26-102 \(11\), C.R.S.](#) No tax shall apply within any municipality levying a lodging tax.