

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 08-0019.02 Thomas Morris

HOUSE BILL 08-1014

HOUSE SPONSORSHIP

Looper,

SENATE SPONSORSHIP

Gordon,

House Committees

Agriculture, Livestock, & Natural Resources

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A REQUIREMENT TO TRANSFER A WELL PERMIT UPON**
102 **CONVEYANCE OF RESIDENTIAL REAL PROPERTY.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Beginning in 2009, prior to or at closing, requires a buyer of residential real estate that includes a small capacity well or domestic exempt water well to complete a form notifying the division of water resources in the department of natural resources (division) of the change in ownership of the well; except that, if the well is an existing well that had not previously been registered with the division, requires the buyer to complete a registration of existing well form. Directs the real estate

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.

commission to promulgate a rule to require the appropriate contracts to include the appropriate form. Requires a person who provides closing services for the transaction, or, if there is no such person, the buyer, to submit the appropriate form to the division within 60 days after closing with as much information as is available. Makes the division responsible for obtaining the necessary information from the buyer.

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

2 **SECTION 1.** 38-30-102, Colorado Revised Statutes, is amended
3 to read:

4 **38-30-102. Water rights conveyed as real estate - well permit**
5 **transfers - legislative declaration - definitions - rules.** (1) THE
6 GENERAL ASSEMBLY:

7 (a) FINDS THAT THE DIVISION OF WATER RESOURCES IN THE
8 DEPARTMENT OF NATURAL RESOURCES NEEDS TIMELY AND ACCURATE
9 DATA REGARDING WELL OWNERSHIP IN ORDER TO EFFICIENTLY AND
10 ACCURATELY ACCOUNT FOR WELLS AND TO ENSURE THAT WELLS ARE
11 PROPERLY CONSTRUCTED AND MAINTAINED;

12 (b) DETERMINES THAT CURRENT DATA CONCERNING WELL
13 OWNERSHIP IS INADEQUATE AND THAT A SUBSTANTIAL NUMBER OF
14 RESIDENTIAL REAL ESTATE TRANSACTIONS THAT TRANSFER OWNERSHIP OF
15 A WELL ARE NOT REPORTED TO THE DIVISION;

16 (c) DETERMINES THAT CURRENT AND ACCURATE DATA IS
17 NECESSARY FOR THE STATE TO NOTIFY WELL OWNERS OF ANY HEALTH,
18 SAFETY, WATER RIGHT, OR STEWARDSHIP ISSUES PERTAINING TO THEIR
19 GROUND WATER WELL; AND

20 (d) DECLARES THAT THIS SECTION IS INTENDED TO PROVIDE THE
21 DIVISION WITH THE INFORMATION IT NEEDS TO PROPERLY CARRY OUT ITS
22 STATUTORY DUTIES.

1 (2) In the conveyance of water rights in all cases, except where the
2 ownership of stock in ditch companies or other companies constitutes the
3 ownership of a water right, the same formalities shall be observed and
4 complied with as in the conveyance of real estate.

5 (3) (a) AS USED IN THIS SUBSECTION (3):

6 (I) "CLOSING SERVICE" MEANS CLOSING AND SETTLEMENT
7 SERVICES, AS DEFINED IN SECTION 10-11-102, C.R.S. [REDACTED]

8 (II) "DIVISION" MEANS THE DIVISION OF WATER RESOURCES IN THE
9 DEPARTMENT OF NATURAL RESOURCES.

10 (III) "PERSON" MEANS ANY INDIVIDUAL, CORPORATION,
11 GOVERNMENT OR GOVERNMENTAL SUBDIVISION OR AGENCY, BUSINESS
12 TRUST, ESTATE, TRUST, LIMITED LIABILITY COMPANY, PARTNERSHIP,
13 ASSOCIATION, OR OTHER LEGAL ENTITY.

14 (b) (I) ON AND AFTER JANUARY 1, 2009, WHEN A BUYER OF
15 RESIDENTIAL REAL ESTATE ENTERS INTO A TRANSACTION THAT RESULTS
16 IN THE TRANSFER OF OWNERSHIP OF A SMALL CAPACITY WELL LISTED IN
17 SECTION 37-90-105 (1) (a) OR (1) (b), C.R.S., OR A DOMESTIC EXEMPT
18 WATER WELL USED FOR ORDINARY HOUSEHOLD PURPOSES THAT IS LISTED
19 IN SECTION 37-92-602 (1) (b) OR (1) (e), C.R.S., THE BUYER SHALL, PRIOR
20 TO OR AT CLOSING OF THE TRANSACTION, COMPLETE A CHANGE IN
21 OWNERSHIP FORM FOR THE WELL IN COMPLIANCE WITH SECTION
22 37-90-143, C.R.S.; EXCEPT THAT, IF AN EXISTING WELL HAS NOT YET BEEN
23 REGISTERED WITH THE DIVISION, THE BUYER SHALL COMPLETE A
24 REGISTRATION OF EXISTING WELL FORM FOR THE WELL.

25 (II) THE REAL ESTATE COMMISSION CREATED IN SECTION
26 12-61-105, C.R.S., SHALL PROMULGATE THE FORMS SPECIFIED IN
27 SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), AND THE RESIDENTIAL REAL

1 ESTATE CONTRACT APPROVED BY THE REAL ESTATE COMMISSION SHALL
2 REQUIRE THE BUYER TO COMPLETE THE APPROPRIATE FORM FOR THE WELL
3 AND FILE THE FORM WITH THE DIVISION WITHIN SIXTY DAYS AFTER
4 CLOSING.

5 (c) (I) IF A PERSON PROVIDES A CLOSING SERVICE IN CONNECTION
6 WITH A RESIDENTIAL REAL ESTATE TRANSACTION SUBJECT TO THIS
7 SUBSECTION (3), THAT PERSON SHALL:

8 (A) WITHIN SIXTY DAYS AFTER CLOSING, SUBMIT THE
9 APPROPRIATE FORM TO THE DIVISION WITH AS MUCH INFORMATION AS IS
10 AVAILABLE, AND THE DIVISION SHALL BE RESPONSIBLE FOR OBTAINING THE
11 NECESSARY WELL REGISTRATION INFORMATION DIRECTLY FROM THE
12 BUYER; AND

13 (B) NOT BE LIABLE FOR DELAYING THE CLOSING OF THE
14 TRANSACTION IN ORDER TO ENSURE THAT THE BUYER COMPLETES THE
15 FORM REQUIRED BY SUBPARAGRAPH (I) OF PARAGRAPH (b) OF THIS
16 SUBSECTION (3). IF THE CLOSING IS DELAYED PURSUANT TO THIS
17 SUB-SUBPARAGRAPH (B), NEITHER THE BUYER NOR THE SELLER SHALL
18 HAVE ANY CLAIM UNDER THIS SECTION FOR RELIEF AGAINST THE BUYER,
19 THE SELLER, THE PERSON WHO PROVIDED CLOSING SERVICES, A TITLE
20 INSURANCE COMPANY REGULATED PURSUANT TO ARTICLE 11 OF TITLE 10,
21 C.R.S., OR ANY PERSON LICENSED PURSUANT TO ARTICLE 61 OF TITLE 12,
22 C.R.S.

23 (II) IF NO PERSON PROVIDES SUCH CLOSING SERVICE, THE BUYER
24 SHALL SUBMIT THE APPROPRIATE FORM WITHIN THE DEADLINE SPECIFIED
25 IN SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (c)
26 AND PAY THE APPLICABLE FEE.

27

1 **SECTION 2. Effective date - applicability.** (1) This act shall
2 take effect January 1, 2009.

3 (2) However, if a referendum petition is filed against this act or
4 an item, section, or part of this act during the 90-day period after final
5 adjournment of the general assembly that is allowed for submitting a
6 referendum petition pursuant to article V, section 1 (3) of the state
7 constitution, then the act, item, section, or part, shall not take effect unless
8 approved by the people at a biennial regular general election and shall
9 take effect on the date specified in subsection (1) or on the date of the
10 official declaration of the vote thereon by proclamation of the governor,
11 whichever is later.

12 (3) The provisions of this act shall apply to conveyances of wells
13 occurring on or after the applicable effective date of this act.