

Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

INTRODUCED

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., OR A SETTLEMENT
8 SERVICE, AS DEFINED IN SECTION 12-61-113.2, C.R.S.

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

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

15 (b) (I) ON AND AFTER JANUARY 1, 2009, WHEN A BUYER OF
16 RESIDENTIAL REAL ESTATE ENTERS INTO A TRANSACTION THAT RESULTS
17 IN THE TRANSFER OF OWNERSHIP OF A SMALL CAPACITY WELL LISTED IN
18 SECTION 37-90-105 (1) (a) OR (1) (b), C.R.S., OR A DOMESTIC EXEMPT
19 WATER WELL LISTED IN SECTION 37-92-602 (1) (b) OR (1) (e), C.R.S., THE
20 BUYER SHALL, PRIOR TO OR AT CLOSING OF THE TRANSACTION, COMPLETE
21 A CHANGE IN OWNERSHIP FORM FOR THE WELL IN COMPLIANCE WITH
22 SECTION 37-90-143, C.R.S.; EXCEPT THAT, IF AN EXISTING WELL HAS NOT
23 YET BEEN REGISTERED WITH THE DIVISION, THE BUYER SHALL COMPLETE
24 A 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, BY RULE, REQUIRE THAT EACH CONTRACT FOR
27 A TRANSACTION SUBJECT TO THIS SUBSECTION (3) SHALL INCLUDE THE

1 FORMS SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) FOR THE
2 WELL.

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

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

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

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

25 **SECTION 2.** 12-61-113 (1) (h), Colorado Revised Statutes, is
26 amended to read:

27 **12-61-113. Investigation - revocation - actions against licensee**

1 **- repeal.** (1) The commission, upon its own motion, may, and, upon the
2 complaint in writing of any person, shall, investigate the activities of any
3 licensee or any person who assumes to act in such capacity within the
4 state, and the commission, after the holding of a hearing pursuant to
5 section 12-61-114, has the power to impose an administrative fine not to
6 exceed two thousand five hundred dollars for each separate offense and
7 to censure a licensee, to place the licensee on probation and to set the
8 terms of probation, or to temporarily suspend or permanently revoke a
9 license when the licensee has performed, is performing, or is attempting
10 to perform any of the following acts and is guilty of:

11 (h) Failing to COMPLY WITH SECTION 38-30-102 (3) (c), C.R.S., TO
12 provide the purchaser and seller of real estate with a closing statement of
13 the transaction, containing such information as may be prescribed by the
14 rules ~~and regulations~~ of the commission, or ~~failing~~ to provide a signed
15 duplicate copy of the listing contract and the contract of sale or the
16 preliminary agreement to sell to the parties thereto;

17 **SECTION 3. Effective date - applicability.** (1) This act shall
18 take effect January 1, 2009.

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

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