

Second Regular Session  
Sixty-sixth General Assembly  
STATE OF COLORADO

REVISED

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

LLS NO. 08-0019.02 Thomas Morris

HOUSE BILL 08-1014

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HOUSE SPONSORSHIP

Looper,

SENATE SPONSORSHIP

Gordon,

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House Committees

Agriculture, Livestock, & Natural Resources

Senate Committees

Agriculture, Natural Resources & Energy

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A BILL FOR AN ACT

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

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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.*

SENATE  
2nd Reading Unamended  
March 10, 2008

HOUSE  
3rd Reading Unamended  
January 23, 2008

HOUSE  
Amended 2nd Reading  
January 22, 2008

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.

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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 [REDACTED]  
26 (II) THE RESIDENTIAL REAL ESTATE CONTRACT APPROVED BY THE  
27 REAL ESTATE COMMISSION CREATED IN SECTION 12-61-105, C.R.S., SHALL

1 REQUIRE THE BUYER TO COMPLETE THE APPROPRIATE FORM FOR THE WELL  
2 AND, IF NO PERSON WILL BE PROVIDING A CLOSING SERVICE IN  
3 CONNECTION WITH THE TRANSACTION, TO FILE THE FORM WITH THE  
4 DIVISION WITHIN SIXTY DAYS AFTER 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.