

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 09-0329.01 Kate Meyer

SENATE BILL 09-080

SENATE SPONSORSHIP

Isgar, Romer, White

HOUSE SPONSORSHIP

Looper,

Senate Committees
Agriculture and Natural Resources

House Committees
Agriculture, Livestock, & Natural Resources

A BILL FOR AN ACT

101 **CONCERNING LIMITED EXEMPTIONS FOR WATER COLLECTED FROM**
102 **CERTAIN RESIDENTIAL ROOFTOPS.**

Bill Summary

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

Authorizes the collection of precipitation from up to 3,000 square feet of a roof of a building that is primarily used as a residence and is not connected to a domestic water system serving more than 3 single-family dwellings, if the water thus collected is used for:

- ! Fire protection;
- ! The watering of poultry, domestic animals, and livestock on farms and ranches;

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
3rd Reading Unamended
February 9, 2009

SENATE
Amended 2nd Reading
February 6, 2009

- ! The irrigation of not over one acre of gardens and lawns; or
- ! Ordinary household purposes.

Requires a person who wishes to collect precipitation from a rooftop to file an application in the form and manner specified by the state engineer and pay a fee in an amount to be determined by the state engineer.

For a person using an exempt well, limits rooftop precipitation collection to the same dwellings served by the well and subject to any limitations on use contained in the well permit.

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

2 **SECTION 1.** The introductory portion to 37-90-105 (1) and
3 37-90-105 (1) (d), (1) (e), and (7), Colorado Revised Statutes, are
4 amended, and the said 37-90-105 (1) is further amended BY THE
5 ADDITION OF A NEW PARAGRAPH, to read:

6 **37-90-105. Small capacity wells.** (1) The state engineer has the
7 authority to approve permits for the following types of wells AND TO
8 ALLOW THE FOLLOWING TYPES OF ROOFTOP PRECIPITATION COLLECTION
9 SYSTEMS in designated ground water basins without regard to any other
10 provisions of this article:

11 (d) Wells to be used exclusively for monitoring and observation
12 purposes if said wells are capped and locked and used only to monitor
13 water levels or for water quality sampling; ~~or~~

14 (e) Wells to be used exclusively for fire-fighting purposes if said
15 wells are capped and locked and available for use only in fighting fires;
16 ~~OR~~

17 (f) (I) ANY SYSTEM OR METHOD OF COLLECTING PRECIPITATION
18 FROM THE ROOF OF A BUILDING THAT IS USED PRIMARILY AS A RESIDENCE
19 AND IS NOT SERVED BY, WHETHER OR NOT CONNECTED TO, A DOMESTIC
20 WATER SYSTEM THAT SERVES MORE THAN THREE SINGLE-FAMILY

1 DWELLINGS, BUT ONLY IF THE USE OF THE WATER SO COLLECTED IS
2 LIMITED TO ONE OR MORE OF THE FOLLOWING:

3 (A) ORDINARY HOUSEHOLD PURPOSES;

4 (B) FIRE PROTECTION;

5 (C) THE WATERING OF POULTRY, DOMESTIC ANIMALS, AND
6 LIVESTOCK ON FARMS AND RANCHES; OR

7 (D) THE IRRIGATION OF NOT MORE THAN ONE ACRE OF GARDENS
8 AND LAWNS.

9 (II) ON AND AFTER JULY 1, 2009, ANY PERSON WISHING TO USE A
10 SYSTEM OR METHOD OF ROOFTOP PRECIPITATION CAPTURE THAT MEETS
11 THE REQUIREMENTS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (f) SHALL
12 COMPLY WITH ONE OF THE FOLLOWING PROVISIONS:

13 (A) A PERSON WHO HAS A WELL PERMIT ISSUED OR RECORDED
14 PURSUANT TO THIS SECTION AND WHO INTENDS TO USE A SYSTEM OR
15 METHOD OF ROOFTOP PRECIPITATION CAPTURE THAT QUALIFIES UNDER
16 SUBPARAGRAPH (I) OF THIS PARAGRAPH (f) SHALL FILE, ON A FORM
17 PRESCRIBED BY THE STATE ENGINEER AND CONSISTENT WITH THIS
18 SECTION, A NOTICE AND DESCRIPTION OF THE SYSTEM OR METHOD OF
19 ROOFTOP PRECIPITATION CAPTURE TO BE USED IN CONJUNCTION WITH THE
20 WELL. NO FEE SHALL BE CHARGED FOR THE FILING OF THIS FORM.

21 (B) A PERSON WHO APPLIES FOR A NEW WELL PERMIT PURSUANT
22 TO PARAGRAPH (a) OF THIS SUBSECTION (1) AND WHO INTENDS TO USE A
23 SYSTEM OR METHOD OF ROOFTOP PRECIPITATION CAPTURE THAT QUALIFIES
24 UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH (f) SHALL INCLUDE ON THE
25 WELL PERMIT APPLICATION A DESCRIPTION OF THE SYSTEM OR METHOD OF
26 ROOFTOP PRECIPITATION CAPTURE TO BE USED IN CONJUNCTION WITH THE
27 WELL. AN APPLICANT UNDER THIS SUB-SUBPARAGRAPH (B) SHALL PAY

1 THE WELL PERMIT APPLICATION FEE PURSUANT TO SUB-SUBPARAGRAPH
2 (C) OF SUBPARAGRAPH (I) OF PARAGRAPH (a) OF SUBSECTION (3) OF THIS
3 SECTION; HOWEVER, SUCH APPLICANT SHALL NOT BE REQUIRED TO PAY
4 ANY ADDITIONAL APPLICATION FEE FOR THE ROOFTOP PRECIPITATION
5 COLLECTION SYSTEM.

6 (C) A PERSON WHO DOES NOT INTEND TO CONSTRUCT AND USE A
7 WELL, BUT WOULD OTHERWISE BE ENTITLED TO THE ISSUANCE OF A WELL
8 PERMIT PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1), SHALL
9 SUBMIT AN APPLICATION IN THE FORM AND MANNER DESIGNATED BY THE
10 STATE ENGINEER FOR A PERMIT TO INSTALL AND USE A SYSTEM OR
11 METHOD OF ROOFTOP PRECIPITATION CAPTURE AND PAY A FEE IN AN
12 AMOUNT TO BE DETERMINED BY THE STATE ENGINEER. IF THE STATE
13 ENGINEER DETERMINES THAT THE PROPOSED SYSTEM OR METHOD OF
14 ROOFTOP PRECIPITATION CAPTURE MEETS THE REQUIREMENTS OF THIS
15 PARAGRAPH (f), THE STATE ENGINEER SHALL ISSUE A PERMIT FOR THE
16 SYSTEM OR METHOD, BUT NOT OTHERWISE. THE STATE ENGINEER SHALL
17 ENFORCE THE PROVISIONS OF THE PERMIT IN THE SAME MANNER AS THE
18 ENFORCEMENT OF ANY WELL PERMIT ISSUED PURSUANT TO PARAGRAPH (a)
19 OF THIS SUBSECTION (1).

20 (III) A PERSON USING OR LEGALLY ENTITLED TO USE A WELL
21 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL BE ALLOWED
22 TO COLLECT ROOFTOP PRECIPITATION PURSUANT TO THIS PARAGRAPH (f)
23 ONLY FOR USE BY THE SAME DWELLINGS THAT ARE OR WOULD BE SERVED
24 BY THE WELL AND SUBJECT TO ALL OF THE LIMITATIONS ON USE
25 CONTAINED IN THE WELL PERMIT OR, IN THE ABSENCE OF A WELL PERMIT,
26 THE WELL PERMIT TO WHICH THE PERSON WOULD BE LEGALLY ENTITLED,
27 AS DETERMINED BY THE STATE ENGINEER OR AS OTHERWISE LIMITED BY

1 THE BOARD OF A GROUND WATER MANAGEMENT DISTRICT PURSUANT TO
2 SUBSECTION (7) OF THIS SECTION.

3 (7) The board of any ground water management district has the
4 authority to adopt rules that further restrict the issuance of small capacity
5 well permits AND USE OF ROOFTOP PRECIPITATION COLLECTION SYSTEMS.
6 In addition, the board of any ground water management district has the
7 authority to adopt rules that expand the acre-foot limitations for small
8 capacity wells set forth in this section. However, in no event shall an
9 annual volume of more than eighty acre-feet be allowed for any small
10 capacity well. Rules adopted by the board may be instituted only after a
11 public hearing. Notice of such hearing shall be published. Such notice
12 shall state the time and place of the hearing and describe, in general
13 terms, the rules proposed. Within sixty days after such hearing, the board
14 shall announce the rules adopted and shall cause notice of such action to
15 be published. In addition, the board shall mail, within five days after the
16 adoption of the rules, a copy of the rules to the state engineer. Any party
17 adversely affected or aggrieved by such a rule may, not later than thirty
18 days after the last date of publication, initiate judicial review in
19 accordance with the provisions of section 24-4-106, C.R.S.; except that
20 venue for such judicial review shall be in the district court for the county
21 in which the office of the ground water management district is located.

22 **SECTION 2.** 37-92-602 (1) (e) and (1) (f), Colorado Revised
23 Statutes, are amended, and the said 37-92-602 (1) is further amended BY
24 THE ADDITION OF A NEW PARAGRAPH, to read:

25 **37-92-602. Exemptions - presumptions - legislative**
26 **declaration.** (1) The provisions of this article, except for sections
27 37-92-201 and 37-92-202, shall not be applicable to:

1 (e) Wells not exceeding fifty gallons per minute ~~which~~ THAT are
2 in production as of May 22, 1971, and were and are used for ordinary
3 household purposes for not more than three single-family dwellings, fire
4 protection, the watering of poultry, domestic animals, and livestock on
5 farms and ranches, and for the irrigation of not over one acre of gardens
6 and lawns; ~~and~~

7 (f) Wells to be used exclusively for monitoring and observation
8 purposes if said wells are capped and locked and used only to monitor
9 water levels or for water quality sampling; AND

10 (g) (I) ANY SYSTEM OR METHOD OF COLLECTING PRECIPITATION
11 FROM THE ROOF OF A BUILDING THAT IS USED PRIMARILY AS A RESIDENCE
12 AND IS NOT SERVED BY, WHETHER OR NOT CONNECTED TO, A DOMESTIC
13 WATER SYSTEM THAT SERVES MORE THAN THREE SINGLE-FAMILY
14 DWELLINGS, BUT ONLY IF THE USE OF THE WATER THUS COLLECTED IS
15 LIMITED TO ONE OR MORE OF THE FOLLOWING:

- 16 (A) ORDINARY HOUSEHOLD PURPOSES;
- 17 (B) FIRE PROTECTION;
- 18 (C) THE WATERING OF POULTRY, DOMESTIC ANIMALS, AND
19 LIVESTOCK ON FARMS AND RANCHES; OR
- 20 (D) THE IRRIGATION OF NOT MORE THAN ONE ACRE OF GARDENS
21 AND LAWNS.

22 (II) AS USED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (g), "A
23 BUILDING THAT IS USED PRIMARILY AS A RESIDENCE" MAY INCLUDE, BUT
24 IS NOT LIMITED TO, ANY STRUCTURE USED FOR HABITATION, REGARDLESS
25 OF WHETHER THE STRUCTURE IS OPERATED COMMERCIALY OR INHABITED
26 INTERMITTENTLY.

27 (III) ON AND AFTER JULY 1, 2009, ANY PERSON WISHING TO USE A

1 SYSTEM OR METHOD OF ROOFTOP PRECIPITATION CAPTURE THAT QUALIFIES
2 AS EXEMPT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH (g) SHALL
3 COMPLY WITH ONE OF THE FOLLOWING PROVISIONS OF
4 SUB-SUBPARAGRAPHS (A), (B), OR (C) OF THIS SUBPARAGRAPH (III):

5 (A) A PERSON WHO HAS A WELL PERMIT ISSUED OR RECORDED
6 PURSUANT TO THIS SECTION AND WHO INTENDS TO USE A SYSTEM OR
7 METHOD OF ROOFTOP PRECIPITATION CAPTURE THAT QUALIFIES AS EXEMPT
8 UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH (g) SHALL FILE, ON A FORM
9 PRESCRIBED BY THE STATE ENGINEER AND CONSISTENT WITH THIS
10 SECTION, A NOTICE AND DESCRIPTION OF THE SYSTEM OR METHOD OF
11 ROOFTOP PRECIPITATION CAPTURE TO BE USED IN CONJUNCTION WITH THE
12 WELL. NO FEE SHALL BE CHARGED FOR THE FILING OF THIS FORM.

13 (B) A PERSON WHO APPLIES FOR A NEW WELL PERMIT PURSUANT
14 TO THIS SECTION AND WHO INTENDS TO USE A SYSTEM OR METHOD OF
15 ROOFTOP PRECIPITATION CAPTURE THAT QUALIFIES AS EXEMPT UNDER
16 SUBPARAGRAPH (I) OF THIS PARAGRAPH (g) SHALL INCLUDE ON THE WELL
17 PERMIT APPLICATION A DESCRIPTION OF THE SYSTEM OR METHOD OF
18 ROOFTOP PRECIPITATION CAPTURE TO BE USED IN CONJUNCTION WITH THE
19 WELL. AN APPLICANT UNDER THIS SUB-SUBPARAGRAPH (B) SHALL PAY
20 THE WELL PERMIT APPLICATION FEE PURSUANT TO SUBPARAGRAPH (II) OF
21 PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION; HOWEVER, SUCH
22 APPLICANT SHALL NOT BE REQUIRED TO PAY ANY ADDITIONAL
23 APPLICATION FEE FOR THE ROOFTOP PRECIPITATION COLLECTION SYSTEM.

24 (C) A PERSON WHO DOES NOT INTEND TO CONSTRUCT AND USE A
25 WELL, BUT WOULD OTHERWISE BE ENTITLED TO THE ISSUANCE OF A WELL
26 PERMIT PURSUANT TO THIS SECTION, INCLUDING THE PROVISIONS OF
27 SUBSECTION (6) OF THIS SECTION, SHALL SUBMIT AN APPLICATION IN THE

1 FORM AND MANNER DESIGNATED BY THE STATE ENGINEER FOR A PERMIT
2 TO INSTALL AND USE A SYSTEM OR METHOD OF ROOFTOP PRECIPITATION
3 CAPTURE AND PAY A FEE IN AN AMOUNT TO BE DETERMINED BY THE STATE
4 ENGINEER. IF THE STATE ENGINEER DETERMINES THAT THE PROPOSED
5 SYSTEM OR METHOD OF ROOFTOP PRECIPITATION CAPTURE MEETS THE
6 REQUIREMENTS OF THIS PARAGRAPH (g), THE STATE ENGINEER SHALL
7 ISSUE A PERMIT FOR THE SYSTEM OR METHOD, BUT NOT OTHERWISE. THE
8 STATE ENGINEER SHALL ENFORCE THE PROVISIONS OF THE PERMIT IN THE
9 SAME MANNER AS THE ENFORCEMENT OF ANY WELL PERMIT ISSUED UNDER
10 THIS SECTION.

11 (IV) A PERSON USING OR LEGALLY ENTITLED TO USE A WELL
12 PURSUANT TO THIS SECTION, INCLUDING THE PROVISIONS OF SUBSECTION
13 (6) OF THIS SECTION, SHALL BE ALLOWED TO COLLECT ROOFTOP
14 PRECIPITATION PURSUANT TO THIS PARAGRAPH (g) ONLY FOR USE BY THE
15 SAME DWELLINGS THAT ARE OR WOULD BE SERVED BY THE WELL AND
16 SUBJECT TO ALL OF THE LIMITATIONS ON USE CONTAINED IN THE WELL
17 PERMIT OR, IN THE ABSENCE OF A WELL PERMIT, THE WELL PERMIT TO
18 WHICH THE PERSON WOULD BE LEGALLY ENTITLED, AS DETERMINED BY
19 THE STATE ENGINEER.

20 **SECTION 3. Effective date.** This act shall take effect July 1,
21 2009.

22 **SECTION 4. Safety clause.** The general assembly hereby finds,
23 determines, and declares that this act is necessary for the immediate
24 preservation of the public peace, health, and safety.