

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

ENGROSSED

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

LLS NO. 09-0635.01 Duane Gall

HOUSE BILL 09-1247

HOUSE SPONSORSHIP

Apuan,

SENATE SPONSORSHIP

Morse,

House Committees
Transportation & Energy

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING ENACTMENT OF THE "HOMEBUYERS' ENERGY**
102 **RIGHT-TO-KNOW ACT" REQUIRING DISCLOSURE OF AN**
103 **EXISTING HOME'S ENERGY USAGE IN CONNECTION WITH THE**
104 **SALE OF THE HOME.**

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 2010, requires the seller of an existing residence to provide the buyer with an energy billing history and usage history for the property for the immediately preceding 12 months or, if the seller did not own the property for 12 months, for the period of the seller's ownership.

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.*

HOUSE
Amended 2nd Reading
March 12, 2009

If the property was unoccupied for any portion of that time, requires disclosure of the dates when it was unoccupied. If the property was not served by a utility supplying electricity or natural gas, requires a statement to that effect.

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

2 **SECTION 1. Short title.** This act shall be known and may be
3 cited as the "Homebuyers' Energy Right-To-Know Act".

4 **SECTION 2.** Article 35.7 of title 38, Colorado Revised Statutes,
5 is amended BY THE ADDITION OF A NEW SECTION to read:

6 **38-35.7-106. Disclosure of energy usage history - rules.**

7 (1) EFFECTIVE JANUARY 1, 2010, A SELLER OF RESIDENTIAL REAL
8 PROPERTY SHALL FURNISH TO THE BUYER, AT THE BUYER'S OPTION AS
9 REFLECTED IN A CONTRACT TO BUY AND SELL CONTAINING THE TERMS
10 SPECIFIED IN SUBSECTION (4) OF THIS SECTION:

11 (a) A BILLING HISTORY AND USAGE HISTORY FOR THE PROPERTY,
12 AS PROVIDED BY EACH UTILITY SUPPLYING ELECTRICITY TO THE PROPERTY
13 AND EACH UTILITY SUPPLYING NATURAL GAS TO THE PROPERTY IF THE
14 SELLER HAS LEGAL ACCESS TO SUCH HISTORIES, FOR:

15 (I) THE TWELVE-MONTH PERIOD IMMEDIATELY PRECEDING THE
16 LISTING OF THE PROPERTY; OR

17 (II) IF THE SELLER OWNED THE PROPERTY FOR LESS THAN TWELVE
18 MONTHS IMMEDIATELY PRECEDING THE LISTING OF THE PROPERTY, THE
19 ENTIRE PERIOD OF THE SELLER'S OWNERSHIP OF THE PROPERTY; OR

20 (b) IF, DURING THE PERIOD DESCRIBED IN PARAGRAPH (a) OF THIS
21 SUBSECTION (1) THE SELLER DID NOT HAVE LEGAL ACCESS TO THE UTILITY
22 HISTORY OF THE RESIDENTIAL REAL PROPERTY, A STATEMENT TO THAT
23 EFFECT.

1 (2) (a) THE OBLIGATION TO PROVIDE THE DISCLOSURE SET FORTH
2 IN SUBSECTION (1) OF THIS SECTION SHALL BE UPON THE SELLER. THE
3 PURCHASER SHALL NOT HAVE ANY CLAIM UNDER THIS SECTION FOR RELIEF
4 AGAINST ANY PERSON FOR ANY DAMAGES TO THE PURCHASER RESULTING
5 FROM AN ALLEGED INADEQUACY OF THE PROPERTY'S INSULATION OR
6 EXCESSIVE ENERGY CONSUMPTION. NOTHING IN THIS SECTION OTHER
7 THAN THIS PARAGRAPH (a) SHALL AFFECT ANY REMEDY THAT THE
8 PURCHASER MAY OTHERWISE HAVE AGAINST THE SELLER.

9 (b) THE UTILITY'S OBLIGATION UNDER THIS SECTION IS LIMITED TO
10 PROVIDING, UPON REQUEST OF THE SELLER WHO HAS LEGAL ACCESS, THE
11 BILLING HISTORY AND USAGE INFORMATION SET FORTH IN PARAGRAPH (a)
12 OF SUBSECTION (1) OF THIS SECTION. NOTHING IN THIS SECTION SHALL
13 IMPOSE ON A UTILITY ANY LIABILITY TO THE SELLER, THE PURCHASER, THE
14 REAL ESTATE BROKER, OR ANY OTHER PERSON FOR ANY DIRECT, INDIRECT,
15 CONSEQUENTIAL, OR OTHER DAMAGES IN CONNECTION WITH THE REAL
16 ESTATE TRANSACTION.

17 (3) FOR PURPOSES OF THIS SECTION, "RESIDENTIAL REAL
18 PROPERTY" MEANS RESIDENTIAL LAND AND RESIDENTIAL IMPROVEMENTS,
19 AS THOSE TERMS ARE DEFINED IN SECTION 39-1-102, C.R.S., BUT DOES
20 NOT INCLUDE A NEW RESIDENTIAL IMPROVEMENT OR HOTELS AND MOTELS,
21 AS THOSE TERMS ARE DEFINED IN SECTION 39-1-102, C.R.S.; EXCEPT THAT
22 A MOBILE HOME AND A MANUFACTURED HOME, AS THOSE TERMS ARE
23 DEFINED IN SECTION 39-1-102, C.R.S., SHALL BE DEEMED TO BE
24 RESIDENTIAL REAL PROPERTY ONLY IF THE MOBILE HOME OR
25 MANUFACTURED HOME IS PERMANENTLY AFFIXED TO A FOUNDATION.

26 (4) THE CONTRACT TO BUY AND SELL RESIDENTIAL REAL PROPERTY
27 SHALL CONTAIN A PROVISION IN SUBSTANTIALLY THE FOLLOWING FORM:

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**PROVISION X.X SELLER TO PROVIDE
UTILITY BILLING AND USAGE HISTORY**

X.X THE BUYER CHOOSES THAT THE SELLER ___
SHALL PROVIDE ___ DOES NOT NEED TO PROVIDE
TWELVE MONTHS OF ENERGY BILLS AND USAGE HISTORY,
PURSUANT TO SECTION 38-35.7-106, C.R.S., WITHIN FIVE
DAYS AFTER ACCEPTING CONTRACT. THIS INFORMATION
MAY ASSIST A BUYER IN DETERMINING WAYS TO INCREASE
THE ENERGY EFFICIENCY OF THE PROPERTY.

SECTION 3. Act subject to petition - effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 4, 2009, if adjournment sine die is on May 6, 2009); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.