

First Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 07-0527.01 Thomas Morris

HOUSE BILL 07-1197

HOUSE SPONSORSHIP

Fischer,

SENATE SPONSORSHIP

Bacon,

House Committees
Local Government

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE AUTHORITY OF A COUNTY TO ABATE CONDITIONS
102 THAT CONTRIBUTE TO A VIOLATION OF A GENERAL
103 STORMWATER QUALITY PERMIT ISSUED TO THE COUNTY BY THE
104 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

Bill Summary

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

Allows a board of county commissioners to adopt an ordinance to require the abatement of a condition that causes or contributes to a violation of a stormwater general permit issued to the county, or of another applicable stormwater requirement, for property located within

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.

unincorporated portions of the county. Specifies that, if the property owner refuses to perform the abatement, the county can do so and may place a lien on the property for the costs of the abatement. Requires the county or district courts to issue an administrative entry and seizure warrant to the property owner upon the county's presentation of proper evidence.

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

2 **SECTION 1.** 30-15-401, Colorado Revised Statutes, is amended
3 BY THE ADDITION OF A NEW SUBSECTION to read:

4 **30-15-401. General regulations.** (11) (a) (I) IF A COUNTY IS THE
5 PERMITTEE OF A STORMWATER GENERAL PERMIT ISSUED PURSUANT TO
6 PART 5 OF ARTICLE 8 OF TITLE 25, C.R.S., OR IS OTHERWISE SUBJECT TO
7 STORMWATER QUALITY REQUIREMENTS, THE BOARD OF COUNTY
8 COMMISSIONERS MAY ADOPT A STORMWATER MANAGEMENT PROGRAM
9 ORDINANCE TO PROVIDE FOR AND COMPEL THE ABATEMENT OF ANY
10 CONDITION THAT CAUSES OR CONTRIBUTES TO A VIOLATION OF THE PERMIT
11 OR REQUIREMENT FROM ANY PROPERTY LOCATED WITHIN THE
12 UNINCORPORATED PORTION OF THE COUNTY AT SUCH TIME, UPON SUCH
13 NOTICE, AND IN SUCH MANNER AS THE BOARD OF COUNTY COMMISSIONERS
14 MAY PRESCRIBE BY ORDINANCE.

15 (II) THE STORMWATER ORDINANCE MAY SPECIFY THAT THE
16 COUNTY MAY:

17 (A) PERFORM THE ABATEMENT UPON NOTICE TO AND FAILURE OF
18 THE PROPERTY OWNER TO ABATE SUCH CONDITION; AND

19 (B) ASSESS THE REASONABLE COST OF THE ABATEMENT,
20 INCLUDING FIVE PERCENT FOR INSPECTION AND OTHER INCIDENTAL COSTS
21 IN CONNECTION THEREWITH, UPON THE PROPERTY FROM WHICH SUCH
22 CONDITION HAS BEEN ABATED.

1 (III) STORMWATER ORDINANCES ADOPTED PURSUANT TO THIS
2 SUBSECTION (11) SHALL INCLUDE PROVISIONS FOR APPLYING FOR AND
3 EXERCISING AN ADMINISTRATIVE ENTRY AND SEIZURE WARRANT ISSUED
4 BY A COUNTY OR DISTRICT COURT HAVING JURISDICTION OVER THE
5 PROPERTY FROM WHICH THE CONDITION IS TO BE ABATED. AN
6 ASSESSMENT PURSUANT TO THIS SUBSECTION (11) SHALL BE A LIEN
7 AGAINST SUCH PROPERTY UNTIL PAID AND SHALL HAVE PRIORITY OVER
8 ALL OTHER LIENS EXCEPT GENERAL TAXES AND PRIOR SPECIAL
9 ASSESSMENTS. IF THE ASSESSMENT IS NOT PAID WITHIN A REASONABLE
10 TIME SPECIFIED BY ORDINANCE, THE COUNTY CLERK AND RECORDER MAY
11 CERTIFY THAT FACT TO THE COUNTY TREASURER, WHO SHALL COLLECT
12 THE ASSESSMENT, TOGETHER WITH A TEN PERCENT PENALTY FOR THE COST
13 OF COLLECTION, IN THE SAME MANNER AS OTHER TAXES ARE COLLECTED.
14 THE LAWS OF THIS STATE FOR ASSESSMENT AND COLLECTION OF GENERAL
15 TAXES, INCLUDING THE LAWS FOR THE SALE AND REDEMPTION OF
16 PROPERTY FOR TAXES, SHALL APPLY TO THE COLLECTION OF ASSESSMENTS
17 PURSUANT TO THIS SUBSECTION (11).

18 (b) (I) A COUNTY COURT OR DISTRICT COURT HAVING
19 JURISDICTION OVER THE PROPERTY FROM WHICH SUCH CONDITION IS TO BE
20 ABATED PURSUANT TO THE STORMWATER ORDINANCE SHALL ISSUE AN
21 ADMINISTRATIVE ENTRY AND SEIZURE WARRANT FOR THE ABATEMENT OF
22 SUCH CONDITION UPON PRESENTATION BY A COUNTY OF:

23 (A) ORDINANCE PROVISIONS THAT MEET THE REQUIREMENTS OF
24 PARAGRAPH (a) OF THIS SUBSECTION (11);

25 (B) A SWORN OR AFFIRMED AFFIDAVIT STATING THE FACTUAL
26 BASIS FOR SUCH WARRANT;

27 (C) EVIDENCE THAT THE PROPERTY OWNER HAS RECEIVED NOTICE

1 OF THE CONDITION AND HAS FAILED TO ABATE THE CONDITION WITHIN A
2 REASONABLE PRESCRIBED PERIOD;

3 (D) A GENERAL DESCRIPTION OF THE LOCATION OF THE PROPERTY
4 THAT IS THE SUBJECT OF THE WARRANT; AND

5 (E) A GENERAL LIST OF CORRECTIVE ACTION NEEDED.

6 (II) WITHIN TEN DAYS AFTER THE DATE OF ISSUANCE OF AN
7 ADMINISTRATIVE ENTRY AND SEIZURE WARRANT PURSUANT TO THE
8 PROVISIONS OF THIS PARAGRAPH (b), THE EXECUTING AUTHORITY SHALL:

9 (A) EXECUTE SUCH WARRANT IN ACCORDANCE WITH DIRECTIONS
10 BY THE ISSUING COURT;

11 (B) PROVIDE OR MAIL A COPY OF SUCH WARRANT TO THE
12 PROPERTY OWNER; AND

13 (C) SUBMIT PROOF OF THE EXECUTION OF SUCH WARRANT,
14 INCLUDING A WRITTEN INVENTORY OF ANY PROPERTY IMPOUNDED BY THE
15 EXECUTING AUTHORITY, TO THE COURT.

16 **SECTION 2. Safety clause.** The general assembly hereby finds,
17 determines, and declares that this act is necessary for the immediate
18 preservation of the public peace, health, and safety.