

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

REVISED

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

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.

HOUSE
Am ended 2nd Reading
March 26, 2009

SENATE
3rd Reading Unamended
February 9, 2009

SENATE
Am ended 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.** 37-80-111.5 (1) (d), Colorado Revised Statutes, is
3 amended to read:

4 **37-80-111.5. Fees - water data bank cash fund - division of**

5 **water resources publication cash fund - satellite monitoring system**

6 **cash fund - ground water management cash fund - well inspection**

7 **cash fund - created.** (1) (d) The state engineer shall collect fees

8 pursuant to sections 37-90-105 (3) (a), (3) (e), and (4), 37-90-107 (7) (c)

9 (I) and (7) (d) (I), 37-90-108 (4) and (6), 37-90-116 (1) (a), (1) (c), (1)

10 (h), and (1) (i), 37-90-137 (2), (3) (a), and (3) (c), 37-90.5-106, 37-92-305

11 (17), 37-92-308, and 37-92-602 (1) (g) (III) (C), (3) (a), (3) (d), and (5).

12 All such fees shall be transmitted to the state treasurer, who shall credit

13 the same to the division of water resources ground water management

14 cash fund, which is hereby created; except that, of each fee collected

15 pursuant to section 37-90-107 (7) (c) (I) and (7) (d) (I) and section

16 37-90-116 (1) (a), (1) (h), and (1) (i), thirty dollars shall be credited to the

17 general fund; of each fee collected pursuant to section 37-90-137 (2), (3)

18 (a) (I), and (3) (a) (II) and section 37-92-602 (3) (a) for wells applied for

19 pursuant to section 37-92-602 (3) (b), twenty-five dollars shall be credited

20 to the general fund; of each fee collected pursuant to section 37-90-116

1 (1) (c), ten dollars shall be credited to the general fund; of each fee
2 collected pursuant to section 37-90-105 (3) (a) and (4) (a) and section
3 37-92-602 (3) (a) for wells applied for pursuant to section 37-92-602 (3)
4 (c) and (5), five dollars shall be credited to the general fund; and except
5 that, of each fee collected pursuant to sections 37-90-105 (3) (a) (I) and
6 (4) (a), 37-90-107 (7) (d) (I), 37-90-116 (1) (a), (1) (c), and (1) (h),
7 37-90-137 (2) (a), and 37-92-602 (3) (a) and (5), forty dollars shall be
8 credited to the well inspection cash fund, which fund is hereby created.
9 Moneys in the well inspection cash fund shall be appropriated to and
10 expended by the state engineer for the purposes established in section
11 37-91-113. Any moneys credited to the well inspection cash fund and
12 unexpended at the end of any given fiscal year shall remain in the fund
13 and shall not revert to the general fund. All interest derived from the
14 deposit and investment of this fund shall remain in the fund and shall not
15 revert to the general fund. Moneys in the ground water management cash
16 fund shall be expended by the state engineer for the purposes of
17 developing an automated well permit processing system that will expedite
18 the issuance of well permits, creating and maintaining a ground water
19 information management system, establishing a ground water data
20 network, establishing ground water recharge programs, conducting
21 ground water investigations, MONITORING COMPLIANCE WITH ROOFTOP
22 PRECIPITATION CAPTURE LAWS AND PERMITS PURSUANT TO SECTION
23 37-92-602 (1) (g), the administration of rotational crop management
24 contracts, and for other ground water related activities that are deemed
25 necessary by the state engineer in performing statutory duties, subject to
26 appropriation by the general assembly. Data in the ground water data
27 network shall be made available to the public by the office of the state

1 engineer as expeditiously as possible.

2 **SECTION 2.** 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
21 DWELLINGS, BUT ONLY IF THE USE OF THE WATER SO COLLECTED IS
22 LIMITED TO ONE OR MORE OF THE FOLLOWING:

23 (A) ORDINARY HOUSEHOLD PURPOSES;

24 (B) FIRE PROTECTION;

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

27 (D) THE IRRIGATION OF NOT MORE THAN ONE ACRE OF GARDENS

1 AND LAWNS.

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

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

14 (B) A PERSON WHO APPLIES FOR A NEW WELL PERMIT PURSUANT
15 TO PARAGRAPH (a) OF THIS SUBSECTION (1) AND WHO INTENDS TO USE A
16 SYSTEM OR METHOD OF ROOFTOP PRECIPITATION CAPTURE THAT QUALIFIES
17 UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH (f) SHALL INCLUDE ON THE
18 WELL PERMIT APPLICATION A DESCRIPTION OF THE SYSTEM OR METHOD OF
19 ROOFTOP PRECIPITATION CAPTURE TO BE USED IN CONJUNCTION WITH THE
20 WELL. AN APPLICANT UNDER THIS SUB-SUBPARAGRAPH (B) SHALL PAY
21 THE WELL PERMIT APPLICATION FEE PURSUANT TO SUB-SUBPARAGRAPH
22 (C) OF SUBPARAGRAPH (I) OF PARAGRAPH (a) OF SUBSECTION (3) OF THIS
23 SECTION; HOWEVER, SUCH APPLICANT SHALL NOT BE REQUIRED TO PAY
24 ANY ADDITIONAL APPLICATION FEE FOR THE ROOFTOP PRECIPITATION
25 COLLECTION SYSTEM.

26 (C) A PERSON WHO DOES NOT INTEND TO CONSTRUCT AND USE A
27 WELL, BUT WOULD OTHERWISE BE ENTITLED TO THE ISSUANCE OF A WELL

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

13 (III) A PERSON USING OR LEGALLY ENTITLED TO USE A WELL
14 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL BE ALLOWED
15 TO COLLECT ROOFTOP PRECIPITATION PURSUANT TO THIS PARAGRAPH (f)
16 ONLY FOR USE BY THE SAME DWELLINGS THAT ARE OR WOULD BE SERVED
17 BY THE WELL AND SUBJECT TO ALL OF THE LIMITATIONS ON USE
18 CONTAINED IN THE WELL PERMIT OR, IN THE ABSENCE OF A WELL PERMIT,
19 THE WELL PERMIT TO WHICH THE PERSON WOULD BE LEGALLY ENTITLED,
20 AS DETERMINED BY THE STATE ENGINEER OR AS OTHERWISE LIMITED BY
21 THE BOARD OF A GROUND WATER MANAGEMENT DISTRICT PURSUANT TO
22 SUBSECTION (7) OF THIS SECTION.

23 (7) The board of any ground water management district has the
24 authority to adopt rules that further restrict the issuance of small capacity
25 well permits AND USE OF ROOFTOP PRECIPITATION COLLECTION SYSTEMS.
26 In addition, the board of any ground water management district has the
27 authority to adopt rules that expand the acre-foot limitations for small

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

15 **SECTION 3.** 37-92-602 (1) (e) and (1) (f), Colorado Revised
16 Statutes, are amended, and the said 37-92-602 (1) is further amended BY
17 THE ADDITION OF A NEW PARAGRAPH, to read:

18 **37-92-602. Exemptions - presumptions - legislative**
19 **declaration.** (1) The provisions of this article, except for sections
20 37-92-201 and 37-92-202, shall not be applicable to:

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

27 (f) Wells to be used exclusively for monitoring and observation

1 purposes if said wells are capped and locked and used only to monitor
2 water levels or for water quality sampling; AND

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

9 (A) ORDINARY HOUSEHOLD PURPOSES;

10 (B) FIRE PROTECTION;

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

13 (D) THE IRRIGATION OF NOT MORE THAN ONE ACRE OF GARDENS
14 AND LAWNS.

15 (II) AS USED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (g), "A
16 BUILDING THAT IS USED PRIMARILY AS A RESIDENCE" MAY INCLUDE, BUT
17 IS NOT LIMITED TO, ANY STRUCTURE USED FOR HABITATION, REGARDLESS
18 OF WHETHER THE STRUCTURE IS OPERATED COMMERCIALY OR INHABITED
19 INTERMITTENTLY.

20 (III) ON AND AFTER JULY 1, 2009, ANY PERSON WISHING TO USE A
21 SYSTEM OR METHOD OF ROOFTOP PRECIPITATION CAPTURE THAT QUALIFIES
22 AS EXEMPT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH (g) SHALL
23 COMPLY WITH ONE OF THE FOLLOWING PROVISIONS OF
24 SUB-SUBPARAGRAPHS (A), (B), OR (C) OF THIS SUBPARAGRAPH (III):

25 (A) A PERSON WHO HAS A WELL PERMIT ISSUED OR RECORDED
26 PURSUANT TO THIS SECTION AND WHO INTENDS TO USE A SYSTEM OR
27 METHOD OF ROOFTOP PRECIPITATION CAPTURE THAT QUALIFIES AS EXEMPT

1 UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH (g) SHALL FILE, ON A FORM
2 PRESCRIBED BY THE STATE ENGINEER AND CONSISTENT WITH THIS
3 SECTION, A NOTICE AND DESCRIPTION OF THE SYSTEM OR METHOD OF
4 ROOFTOP PRECIPITATION CAPTURE TO BE USED IN CONJUNCTION WITH THE
5 WELL. NO FEE SHALL BE CHARGED FOR THE FILING OF THIS FORM.

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

17 (C) A PERSON WHO DOES NOT INTEND TO CONSTRUCT AND USE A
18 WELL, BUT WOULD OTHERWISE BE ENTITLED TO THE ISSUANCE OF A WELL
19 PERMIT PURSUANT TO THIS SECTION, INCLUDING THE PROVISIONS OF
20 SUBSECTION (6) OF THIS SECTION, SHALL SUBMIT AN APPLICATION IN THE
21 FORM AND MANNER DESIGNATED BY THE STATE ENGINEER FOR A PERMIT
22 TO INSTALL AND USE A SYSTEM OR METHOD OF ROOFTOP PRECIPITATION
23 CAPTURE AND PAY A FEE IN AN AMOUNT TO BE DETERMINED BY THE STATE
24 ENGINEER. IF THE STATE ENGINEER DETERMINES THAT THE PROPOSED
25 SYSTEM OR METHOD OF ROOFTOP PRECIPITATION CAPTURE MEETS THE
26 REQUIREMENTS OF THIS PARAGRAPH (g), THE STATE ENGINEER SHALL
27 ISSUE A PERMIT FOR THE SYSTEM OR METHOD, BUT NOT OTHERWISE. THE

1 STATE ENGINEER SHALL ENFORCE THE PROVISIONS OF THE PERMIT IN THE
2 SAME MANNER AS THE ENFORCEMENT OF ANY WELL PERMIT ISSUED UNDER
3 THIS SECTION.

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

13 (V) (A) THE STATE ENGINEER OR THE DIVISION ENGINEERS MAY
14 ISSUE, TO THE USERS OF METHODS OR SYSTEMS OF ROOFTOP PRECIPITATION
15 COLLECTION, ORDERS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS
16 PARAGRAPH (g). IF SUCH ORDERS ARE GIVEN ORALLY, THEY SHALL BE
17 CONFIRMED PROMPTLY IN WRITING.

18 (B) IN THE EVENT THAT AN ORDER OF A DIVISION ENGINEER OR THE
19 STATE ENGINEER ISSUED PURSUANT TO SUB-SUBPARAGRAPH (A) OF THIS
20 SUBPARAGRAPH (V) IS NOT COMPLIED WITH, THE STATE ENGINEER, IN THE
21 NAME OF THE PEOPLE OF THE STATE OF COLORADO, THROUGH THE
22 ATTORNEY GENERAL, SHALL APPLY TO THE WATER JUDGE OF THE
23 PARTICULAR DIVISION FOR AN INJUNCTION ENJOINING THE PERSON FROM
24 COMMITTING THE VIOLATION. IN SUCH PROCEEDING, IF THE COURT
25 UPHOLDS THE ORDER OF THE STATE ENGINEER, THE PERSON AGAINST
26 WHOM SUCH ORDER WAS ISSUED SHALL PAY THE COSTS OF THE
27 PROCEEDING, INCLUDING REASONABLE ATTORNEY FEES.

1 (C) ANY PERSON WHO VIOLATES AN ORDER ISSUED BY THE STATE
2 ENGINEER PURSUANT TO SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH
3 (V) SHALL FORFEIT AND PAY A SUM NOT TO EXCEED FIVE HUNDRED
4 DOLLARS FOR EACH VIOLATION. ANY FINE COLLECTED FOR VIOLATIONS OF
5 THIS PARAGRAPH (g) SHALL BE TRANSMITTED TO THE STATE TREASURER,
6 WHO SHALL CREDIT THE SAME TO THE DIVISION OF WATER RESOURCES
7 GROUND WATER MANAGEMENT CASH FUND, CREATED IN SECTION
8 37-80-111.5 (1) (d).

9 SECTION 4. **Effective date.** This act shall take effect July 1,
10 2009.

11 SECTION 5. **Safety clause.** The general assembly hereby finds,
12 determines, and declares that this act is necessary for the immediate
13 preservation of the public peace, health, and safety.