


Colorado Legislative Council Staff Fiscal Note
STATE
FISCAL IMPACT

Drafting Number: LLS 12-0162
Prime Sponsor(s): Rep. Looper

Date: February 9, 2012
Bill Status: House Judiciary
Fiscal Analyst: Kirk Mlinek (303-866-4782)

TITLE: CONCERNING A REQUIREMENT FOR DISCLOSURE REGARDING SEVERED MINERAL ESTATES UPON THE CONVEYANCE OF REAL ESTATE.

Fiscal Impact Summary	FY 2012-2013	FY 2013-2014
State Revenue		
State Expenditures		
FTE Position Change		
Effective Date: August 8, 2012, if the General Assembly adjourns on May 9, 2012, as scheduled, and no referendum petition is filed.		
Appropriation Summary for FY 2012-2013: None required.		
Local Government Impact: None.		

Summary of Legislation

Beginning January 1, 2013, the bill requires real estate listing contracts, contracts of sale, and sellers' property disclosures to include a notice regarding 1) whether the mineral estate has been severed from the surface estate, and 2) a surface owner's right of first refusal to purchase the mineral estate when the taxes have not been paid. The Real Estate Commission (commission), in the Department of Regulatory Agencies (DORA), is required to promulgate a rule that sets forth the form and content of the disclosure. Listing contracts, contracts for sale, and seller's property disclosures for real property prepared by persons who are not subject to the commission's jurisdiction must contain a disclosure statement in substantially the same form as that specified by the commission.

When the required disclosure statement indicates that the mineral estate has been severed, the seller also is required to provide, at his or her expense, with the disclosure:

- a copy of each instrument that severed the mineral estate if the owner has a copy of the instrument;
- the name and contact information of the owner of the mineral estate, if the seller has that information;
- the name and contact information of any known current lessees of the mineral estate; and

- a statement indicating whether mineral exploration or development on the real property will use water that would otherwise be available to the buyer as an incident of ownership of the real property.

The bill also specifies that mineral leases executed on or after the bill's effective date are void and unenforceable, except between the parties to the lease, unless the lease has been recorded in the county clerk and recorder's office in the county where the real property is situated.

State Expenditures

The bill requires the DORA to promulgate a rule for purposes of implementing the provisions of the bill. The bill is prescriptive regarding the language that the commission is to add to specific documents relating to real estate transactions. As a result, the workload associated with this rule making can be accomplished in the normal course of business and within existing appropriations.

Disclosures mandated by the bill mirror current practices of the State Land Board and the Division of Parks and Wildlife in the Department of Natural Resources. Costs to update applicable forms will be absorbed within existing appropriations. Staff time spent determining the status of the mineral estate and water rights for property transactions should decrease as a result of the disclosures mandated by the bill.

Departments Contacted

Regulatory Agencies
Law
Municipal League

Personnel and Administration
Local Affairs
Special Districts

Natural Resources
Colorado Counties
Clerks and Recorders