

Second Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 12-0162.02 Thomas Morris x4218

HOUSE BILL 12-1164

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HOUSE SPONSORSHIP

Looper,

SENATE SPONSORSHIP

(None),

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House Committees  
Judiciary

Senate Committees

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A BILL FOR AN ACT

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

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

Beginning in 2013, listing contracts, contracts of sale, and sellers' property disclosures for real estate must include a notice regarding whether the mineral estate has been severed from the surface estate and a surface owner's right of first refusal to purchase the mineral estate when the taxes on the mineral estate have not been paid. The seller must

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.*

provide to the buyer a copy of each instrument that severed the mineral estate, the name and contact information of the owner of the mineral estate, and the name and contact information of any known current lessees of the mineral estate, if that information is available. The seller must also indicate whether mineral exploration or development on the real property is or will be using water that would otherwise be available to the buyer as an incident of ownership of the real property.

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

2           **SECTION 1.** In Colorado Revised Statutes, **add** 38-35.7-108 as  
3 follows:

4           **38-35.7-108. Disclosure regarding severed mineral estates -**  
5 **rules - definitions.** (1) (a) (I) BY JANUARY 1, 2013, THE REAL ESTATE  
6 COMMISSION CREATED IN SECTION 12-61-105, C.R.S., SHALL, BY RULE,  
7 REQUIRE EACH LISTING CONTRACT, CONTRACT OF SALE, AND SELLER'S  
8 PROPERTY DISCLOSURE FOR REAL PROPERTY THAT IS SUBJECT TO THE  
9 COMMISSION'S JURISDICTION PURSUANT TO ARTICLE 61 OF TITLE 12,  
10 C.R.S., TO DISCLOSE WHETHER THE MINERAL ESTATE FOR THE PROPERTY  
11 HAS BEEN SEVERED FROM THE SURFACE ESTATE, WHICH DISCLOSURE MUST  
12 INCLUDE SUBSTANTIALLY THE FOLLOWING INFORMATION:

13                   **THE MINERAL ESTATE FOR THIS**  
14                   **PROPERTY:**

15                    **HAS NOT BEEN SEVERED.**

16                    **HAS BEEN SEVERED PURSUANT TO:**

17                            **A DEED OR OTHER CONVEYANCE.**

18                            **A WILL OR INTESTATE SUCCESSION.**

19                    **MAY HAVE BEEN SEVERED PURSUANT TO:**

20                            **A DEED OR OTHER CONVEYANCE.**

21                            **A WILL OR INTESTATE SUCCESSION.**

22                   **YOU MAY WISH TO INVESTIGATE THE**

1 FOLLOWING COLORADO REVISED STATUTES:  
2 SECTION 39-1-104.5, C.R.S., WHICH ALLOWS  
3 A SURFACE OWNER TO REQUIRE THE ASSESSOR  
4 TO PLACE ON THE ASSESSMENT ROLL THE  
5 SEVERED MINERALS THAT UNDERLIE THE  
6 SURFACE OWNER'S PROPERTY IF THE SURFACE  
7 OWNER SUBMITS PROOF OF OWNERSHIP OF  
8 THE MINERAL ESTATE; AND

9 SECTION 39-11-150, C.R.S., WHICH  
10 PROVIDES THE SURFACE OWNER WITH A  
11 RIGHT OF FIRST REFUSAL TO PURCHASE A TAX  
12 LIEN CERTIFICATE FOR MINERALS  
13 UNDERLYING HIS OR HER PROPERTY WHEN  
14 THE TAXES HAVE NOT BEEN PAID.

15 (II) ON AND AFTER JANUARY 1, 2013, EACH LISTING CONTRACT,  
16 CONTRACT OF SALE, OR SELLER'S PROPERTY DISCLOSURE FOR REAL  
17 PROPERTY THAT IS NOT SUBJECT TO THE REAL ESTATE COMMISSION'S  
18 JURISDICTION PURSUANT TO ARTICLE 61 OF TITLE 12, C.R.S., MUST  
19 CONTAIN A DISCLOSURE STATEMENT IN BOLD-FACED TYPE THAT IS  
20 CLEARLY LEGIBLE IN SUBSTANTIALLY THE SAME FORM AS IS SPECIFIED IN  
21 SUBPARAGRAPH (I) OF THIS PARAGRAPH (a).

22 (b) IF THE DISCLOSURE STATEMENT REQUIRED BY PARAGRAPH (a)  
23 OF THIS SUBSECTION (1) INDICATES THAT THE MINERAL ESTATE HAS BEEN  
24 SEVERED, THE SELLER SHALL ALSO PROVIDE WITH THE DISCLOSURE:

25 (I) A COPY OF EACH INSTRUMENT THAT SEVERED THE MINERAL  
26 ESTATE, IF THE OWNER HAS A COPY OF THE INSTRUMENT;

27 (II) THE NAME AND CONTACT INFORMATION OF THE OWNER OF THE

1 MINERAL ESTATE, IF THE SELLER HAS THAT INFORMATION; AND

2 (III) THE NAME AND CONTACT INFORMATION OF ANY KNOWN  
3 CURRENT LESSEES OF THE MINERAL ESTATE.

4 (c) THE SELLER SHALL ALSO PROVIDE, WITH THE DISCLOSURE, A  
5 STATEMENT INDICATING WHETHER MINERAL EXPLORATION OR  
6 DEVELOPMENT ON THE REAL PROPERTY IS OR WILL BE USING WATER THAT  
7 WOULD OTHERWISE BE AVAILABLE TO THE BUYER AS AN INCIDENT OF  
8 OWNERSHIP OF THE REAL PROPERTY.

9 (2) THE OBLIGATION TO PROVIDE THE DISCLOSURES SET FORTH IN  
10 SUBSECTION (1) OF THIS SECTION IS UPON THE SELLER. IF THE SELLER  
11 COMPLIES WITH THIS SECTION, THE PURCHASER DOES NOT HAVE ANY  
12 CLAIM UNDER THIS SECTION FOR RELIEF AGAINST THE SELLER OR ANY  
13 PERSON LICENSED PURSUANT TO ARTICLE 61 OF TITLE 12, C.R.S., FOR ANY  
14 DAMAGES TO THE PURCHASER RESULTING FROM A SEVERANCE OF THE  
15 MINERAL ESTATE. NOTHING IN THIS SECTION AFFECTS ANY REMEDY THAT  
16 THE PURCHASER MAY OTHERWISE HAVE AGAINST THE SELLER.

17 (3) FOR PURPOSES OF THIS SECTION:

18 (a) "MINERAL ESTATE" MEANS A MINERAL INTEREST IN REAL  
19 PROPERTY.

20 (b) "SEVERED" MEANS THAT THE SURFACE OWNER DOES NOT OWN  
21 ALL OR ANY PART OF THE MINERAL ESTATE.

22 (c) "SURFACE ESTATE" MEANS AN INTEREST IN REAL PROPERTY  
23 THAT DOES NOT INCLUDE THE FULL MINERAL ESTATE AS SHOWN BY  
24 RECORDED DOCUMENTS THAT IMPART CONSTRUCTIVE NOTICE IN THE  
25 OFFICE OF THE CLERK AND RECORDER OF THE COUNTY IN WHICH THE REAL  
26 PROPERTY IS SITUATED.

27 **SECTION 2. Act subject to petition - effective date.** This act

1 takes effect at 12:01 a.m. on the day following the expiration of the  
2 ninety-day period after final adjournment of the general assembly (August  
3 8, 2012, if adjournment sine die is on May 9, 2012); except that, if a  
4 referendum petition is filed pursuant to section 1 (3) of article V of the  
5 state constitution against this act or an item, section, or part of this act  
6 within such period, then the act, item, section, or part will not take effect  
7 unless approved by the people at the general election to be held in  
8 November 2012 and, in such case, will take effect on the date of the  
9 official declaration of the vote thereon by the governor.