

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 13-0986.01 Duane Gall x4335

HOUSE BILL 13-1307

HOUSE SPONSORSHIP

Kagan, Gardner

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE EFFECT OF THE INCLUSION OF A LEGAL DESCRIPTION**
102 **ON THE VALIDITY OF DOCUMENTS AFFECTING TITLE TO REAL**
103 **PROPERTY.**

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>.)

Current law states that the absence of a street address, assessor's schedule number, or parcel number in a document of title to real property does not render the document ineffective if a legal description is included. The bill specifies that the absence of a legal description does not

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.

necessarily invalidate the document or its recording in the county clerk and recorder's office, nor determine the validity of the document as against a person obtaining rights in the property.

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

2 **SECTION 1.** In Colorado Revised Statutes, 38-35-122, **add** (3.5),
3 (4), and (5) as follows:

4 **38-35-122. Inclusion of street address and assessor**
5 **information with legal description - inclusion of legal description -**
6 **effect - validity of recording - interests in property - legislative**
7 **declaration. (3.5) Legislative declaration. (a) THE GENERAL ASSEMBLY**
8 **FINDS, DETERMINES, AND DECLARES THAT IN *IN RE RIVERA*, 2012 CO 43**
9 **(ALSO REFERRED TO AS *SENDER V. CYGAN*), THE COLORADO SUPREME**
10 **COURT HELD THAT A RECORDED DEED OF TRUST THAT COMPLETELY OMITTS**
11 **A LEGAL DESCRIPTION IS DEFECTIVELY RECORDED AND CANNOT PROVIDE**
12 **CONSTRUCTIVE NOTICE TO A SUBSEQUENT PURCHASER OF ANOTHER**
13 **PARTY'S SECURITY INTEREST IN THE PROPERTY.**

14 (b) BY ENACTING HOUSE BILL 13-1307, ENACTED IN 2013, IT IS THE
15 INTENT OF THE GENERAL ASSEMBLY TO CLARIFY, FOR PARTIES THAT
16 CURRENTLY HAVE AN INTEREST IN REAL PROPERTY OR THAT WILL ACQUIRE
17 AN INTEREST IN REAL PROPERTY IN THE FUTURE, THAT, NOTWITHSTANDING
18 THE HOLDINGS AND CONCLUSIONS IN *IN RE RIVERA*, THE FACT THAT A
19 RECORDED DOCUMENT OMITTS A LEGAL DESCRIPTION IS NOT, BY ITSELF AND
20 WITHOUT REGARD TO THE TOTALITY OF THE CIRCUMSTANCES,
21 DETERMINATIVE OF WHETHER THE DOCUMENT:

22 (I) IS VALID AGAINST ANY PERSON OBTAINING RIGHTS IN THE REAL
23 PROPERTY; OR

24 (II) IS VALID OR INVALID.

1 (4) THE FACT THAT A DOCUMENT PURPORTING TO AFFECT TITLE TO
2 REAL PROPERTY, WHETHER RECORDED BEFORE OR AFTER THE EFFECTIVE
3 DATE OF THIS SECTION, DOES NOT CONTAIN OR INCLUDE A LEGAL
4 DESCRIPTION OF THE REAL PROPERTY MAY, IN THE TOTALITY OF THE
5 CIRCUMSTANCES, BUT DOES NOT NECESSARILY:

6 (a) RENDER DEFECTIVE, INVALID, OR VOID THE RECORDING OF THE
7 DOCUMENT IN THE OFFICE OF THE COUNTY CLERK AND RECORDER OF THE
8 COUNTY WHERE THE REAL PROPERTY IS SITUATED; OR

9 (b) DETERMINE WHETHER THE DOCUMENT IS VALID AGAINST A
10 PERSON OBTAINING RIGHTS IN THE REAL PROPERTY.

11 (5) THE FACT THAT A DOCUMENT PURPORTING TO AFFECT TITLE TO
12 REAL PROPERTY, WHETHER EXECUTED BEFORE OR AFTER THE EFFECTIVE
13 DATE OF THIS SUBSECTION (5), DOES NOT CONTAIN OR INCLUDE A LEGAL
14 DESCRIPTION OF THE REAL PROPERTY MAY, IN THE TOTALITY OF THE
15 CIRCUMSTANCES, BUT DOES NOT NECESSARILY, DETERMINE WHETHER THE
16 DOCUMENT IS VALID OR INVALID.

17 **SECTION 2. Act subject to petition - effective date.** This act
18 takes effect at 12:01 a.m. on the day following the expiration of the
19 ninety-day period after final adjournment of the general assembly (August
20 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a
21 referendum petition is filed pursuant to section 1 (3) of article V of the
22 state constitution against this act or an item, section, or part of this act
23 within such period, then the act, item, section, or part will not take effect
24 unless approved by the people at the general election to be held in
25 November 2014 and, in such case, will take effect on the date of the
26 official declaration of the vote thereon by the governor.