

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

**ENGROSSED**

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

LLS NO. 13-0851.01 Jery Payne x2157

**HOUSE BILL 13-1268**

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**HOUSE SPONSORSHIP**

**Moreno,** Foote, Hullinghorst, Lebsock, Mitsch Bush, Pabon, Singer

**SENATE SPONSORSHIP**

**Hodge,**

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**House Committees**

Agriculture, Livestock, & Natural Resources

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING A DISCLOSURE OF POSSIBLE SEPARATE OWNERSHIP OF**  
102 **THE MINERAL ESTATE IN THE SALE OF REAL PROPERTY.**

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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>.)*

The bill requires a seller to disclose in the sale of real property that a separate mineral estate may subject the property to oil, gas, or mineral extraction. A standard disclosure or a substantially similar disclosure is required. A seller that provides this disclosure is not liable for any damages of the purchaser from oil, gas, or mineral extraction.

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  
2nd Reading Unamended  
April 1, 2013

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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 of oil and gas activity - rules.**

5 (1) (a) BY JANUARY 1, 2014, THE REAL ESTATE COMMISSION CREATED IN  
6 SECTION 12-61-105, C.R.S., SHALL PROMULGATE A RULE REQUIRING EACH  
7 LISTING CONTRACT, CONTRACT OF SALE, OR SELLER'S PROPERTY  
8 DISCLOSURE FOR RESIDENTIAL REAL PROPERTY THAT IS SUBJECT TO THE  
9 COMMISSION'S JURISDICTION TO DISCLOSE THE FOLLOWING OR  
10 SUBSTANTIALLY SIMILAR INFORMATION:

11                   **THE SURFACE ESTATE OF THE PROPERTY**  
12                   **MAY BE OWNED SEPARATELY FROM THE**  
13                   **UNDERLYING MINERAL ESTATE, AND**  
14                   **TRANSFER OF THE SURFACE ESTATE MAY NOT**  
15                   **INCLUDE TRANSFER OF THE MINERAL ESTATE.**  
16                   **THIRD PARTIES MAY OWN OR LEASE**  
17                   **INTERESTS IN OIL, GAS, OR OTHER MINERALS**  
18                   **UNDER THE SURFACE, AND THEY MAY ENTER**  
19                   **AND USE THE SURFACE ESTATE TO ACCESS**  
20                   **THE MINERAL RIGHTS.**

21                   **THE USE OF THE SURFACE ESTATE TO**  
22                   **ACCESS THE MINERALS MAY BE GOVERNED BY**  
23                   **A SURFACE USE AGREEMENT, A**  
24                   **MEMORANDUM OR OTHER NOTICE OF WHICH**  
25                   **MAY BE RECORDED WITH THE COUNTY CLERK**  
26                   **AND RECORDER.**

1                   **THE OIL AND GAS ACTIVITY THAT MAY**  
2                   **OCCUR ON OR NEAR THIS PROPERTY MAY**  
3                   **INCLUDE SURVEYING, DRILLING, WELL**  
4                   **COMPLETION OPERATIONS, STORAGE**  
5                   **FACILITIES, PRODUCING WELLS, AND GAS**  
6                   **GATHERING AND PROCESSING FACILITIES.**

7                   **ADDITIONAL INFORMATION REGARDING**  
8                   **OIL AND GAS ACTIVITY ON OR ADJACENT TO**  
9                   **THIS PROPERTY, INCLUDING DRILLING**  
10                  **PERMIT APPLICATIONS, MAY BE AVAILABLE**  
11                  **FROM THE COLORADO OIL AND GAS**  
12                  **CONSERVATION COMMISSION.**

13                  (b) ON AND AFTER JANUARY 1, 2014, EACH LISTING CONTRACT,  
14                  CONTRACT OF SALE, OR SELLER'S PROPERTY DISCLOSURE FOR RESIDENTIAL  
15                  REAL PROPERTY THAT IS NOT SUBJECT TO THE REAL ESTATE COMMISSION'S  
16                  JURISDICTION MUST CONTAIN A DISCLOSURE STATEMENT IN BOLD-FACED  
17                  TYPE THAT IS CLEARLY LEGIBLE IN SUBSTANTIALLY THE SAME FORM AS IS  
18                  SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (1).

19                  (2) THE SELLER SHALL PROVIDE THE DISCLOSURE SET FORTH IN  
20                  SUBSECTION (1) OF THIS SECTION. IF THE SELLER COMPLIES WITH THIS  
21                  SECTION, THE PURCHASER HAS NO CLAIM FOR RELIEF AGAINST THE SELLER  
22                  OR ANY PERSON LICENSED PURSUANT TO ARTICLE 61 OF TITLE 12, C.R.S.,  
23                  FOR ANY DAMAGES OF THE PURCHASER RESULTING FROM OIL, GAS, OR  
24                  MINERAL EXTRACTION.

25                  **SECTION 2. Act subject to petition - effective date -**  
26                  **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
27                  the expiration of the ninety-day period after final adjournment of the

1 general assembly (August 7, 2013, if adjournment sine die is on May 8,  
2 2013); except that, if a referendum petition is filed pursuant to section 1  
3 (3) of article V of the state constitution against this act or an item, section,  
4 or part of this act within such period, then the act, item, section, or part  
5 will not take effect unless approved by the people at the general election  
6 to be held in November 2014 and, in such case, will take effect on the  
7 date of the official declaration of the vote thereon by the governor.

8 (2) This act applies to contracts made on or after the later of the  
9 applicable effective date of this act or January 1, 2014.