

First Regular Session  
Sixty-fifth General Assembly  
STATE OF COLORADO

**REENGROSSED**

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

LLS NO. 05-0499.01 Thomas Morris

**HOUSE BILL 05-1039**

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**HOUSE SPONSORSHIP**

Curry,

**SENATE SPONSORSHIP**

(None),

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**House Committees**

Agriculture, Livestock, & Natural Resources

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING THE CONDITIONS PURSUANT TO WHICH LOANS OF WATER**  
102 **RIGHTS MAY BE MADE FOR INSTREAM FLOW PURPOSES.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Deletes the limitation that loans of water rights to the Colorado water conservation board for instream flow purposes may be made only when the governor declares an emergency. Allows the loans to operate for no more than 3 years out of 10. Allows a second 10-year period if the loan was not exercised during the initial 10-year period.

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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  
3rd Reading Unamended  
January 31, 2005

HOUSE  
Amended 2nd Reading  
January 28, 2005

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

2 **SECTION 1.** The introductory portion to 37-83-105 (2) (a),  
3 Colorado Revised Statutes, is amended, and the said 37-83-105 (2) (a) is  
4 further amended BY THE ADDITION OF THE FOLLOWING NEW  
5 SUBPARAGRAPHS, to read:

6 **37-83-105. Owner may loan agricultural water right - loans to**  
7 **Colorado water conservation board for instream flows.** (2) (a) ~~In any~~  
8 ~~basin or county in which the governor declares a drought emergency or~~  
9 ~~in which any other emergency is declared;~~ A water right owners OWNER  
10 may loan water to the Colorado water conservation board for use as  
11 instream flows PURSUANT TO A DECREED INSTREAM FLOW WATER RIGHT  
12 HELD BY THE BOARD for a period not to exceed one hundred twenty days,  
13 subject to the following:

14 (IV) A LOAN APPROVED PURSUANT TO THIS PARAGRAPH (a) SHALL  
15 NOT BE EXERCISED FOR MORE THAN THREE YEARS IN A TEN-YEAR PERIOD,  
16 FOR WHICH ONLY A SINGLE APPROVAL BY THE STATE ENGINEER IS  
17 REQUIRED. THE TEN-YEAR PERIOD SHALL BEGIN WHEN THE STATE  
18 ENGINEER APPROVES THE LOAN. THE STATE ENGINEER SHALL NOT  
19 APPROVE A LOAN PURSUANT TO THIS PARAGRAPH (a) FOR ANOTHER  
20 TEN-YEAR PERIOD; EXCEPT THAT, IF THE AGREEMENT HAS NOT BEEN  
21 EXERCISED DURING THE TERM OF THE AGREEMENT, AN APPLICANT MAY  
22 REAPPLY ONE TIME BY REPEATING THE APPLICATION PROCESS PURSUANT  
23 TO THIS SUBSECTION (2).

24 (V) A PARTY MAY FILE COMMENTS CONCERNING POTENTIAL  
25 INJURY TO SUCH PARTY'S WATER RIGHTS OR DECREED CONDITIONAL  
26 WATER RIGHTS DUE TO THE OPERATIONS OF THE LOAN OF A WATER RIGHT  
27 TO A DECREED INSTREAM FLOW RIGHT WITH THE STATE ENGINEER BY

1 JANUARY 1 OF THE YEAR FOLLOWING EACH YEAR THAT THE LOAN IS  
2 EXERCISED. THE PROCEDURES OF PARAGRAPH (b) OF THIS SUBSECTION (2)  
3 REGARDING NOTICE, OPPORTUNITY TO COMMENT, THE STATE ENGINEER'S  
4 DECISION, AND AN APPEAL OF SUCH DECISION SHALL AGAIN BE FOLLOWED  
5 WITH REGARD TO SUCH PARTY'S COMMENTS.

6           **SECTION 2. Effective date - applicability.** (1) This act shall  
7 take effect at 12:01 a.m. on the day following the expiration of the  
8 ninety-day period after final adjournment of the general assembly that is  
9 allowed for submitting a referendum petition pursuant to article V,  
10 section 1 (3) of the state constitution (August 10, 2005, if adjournment  
11 sine die is on May 11, 2005); except that, if a referendum petition is filed  
12 against this act or an item, section, or part of this act within such period,  
13 then the act, item, section, or part, if approved by the people, shall take  
14 effect on the date of the official declaration of the vote thereon by  
15 proclamation of the governor.

16           (2) The provisions of this act shall apply to loans approved on or  
17 after the applicable effective date of this act.