

**Second Regular Session
Seventieth General Assembly
STATE OF COLORADO**

REVISED

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

LLS NO. 16-0094.01 Jennifer Berman x3286

HOUSE BILL 16-1005

HOUSE SPONSORSHIP

Esgar and Danielson,

SENATE SPONSORSHIP

Merrifield,

House Committees

Agriculture, Livestock, & Natural Resources

Senate Committees

Agriculture, Natural Resources, & Energy

A BILL FOR AN ACT

101 **CONCERNING THE USE OF RAIN BARRELS TO COLLECT PRECIPITATION**
102 **FROM A RESIDENTIAL ROOFTOP FOR NONPOTABLE OUTDOOR**
103 **USES.**

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/bills summaries>.)

Section 1 of the bill allows the collection of precipitation from a residential rooftop if:

! A maximum of 2 rain barrels with a combined storage capacity of 110 gallons or less are used;

! Precipitation is collected from the rooftop of a building that

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.

SENATE
2nd Reading Unamended
March 31, 2016

HOUSE
3rd Reading Unamended
March 1, 2016

HOUSE
Amended 2nd Reading
February 29, 2016

is used primarily as a single-family residence or a multi-family residence with 4 or fewer units;

! The collected precipitation is used on the residential property on which the precipitation is collected; and

! The collected precipitation is applied to outdoor purposes such as lawn irrigation and gardening.

Section 1 also requires the state engineer, to the extent practicable within existing resources, to provide information on the permitted use of rain barrels on the state engineer's website.

Section 2 requires the department of public health and environment, to the extent practicable within existing resources, to develop best practices for nonpotable usage of collected precipitation and vector control and to post any best practices developed on the department's website.

Section 3 prevents a homeowners' association from prohibiting a unit owner from using rain barrels for precipitation collection.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 96.5 to
3 title 37 as follows:

4 **ARTICLE 96.5**

5 **Rooftop Precipitation Collection**

6 **37-96.5-101. Legislative declaration.** (1) THE GENERAL
7 ASSEMBLY HEREBY FINDS AND DETERMINES THAT, PURSUANT TO SECTIONS
8 5 AND 6 OF ARTICLE XVI OF THE STATE CONSTITUTION, WATER IS
9 CONSIDERED THE PROPERTY OF THE PUBLIC, IS DEDICATED TO THE USE OF
10 THE PEOPLE, IS SUBJECT TO THE DOCTRINE OF PRIOR APPROPRIATION, AND
11 MUST BE ADMINISTERED IN ACCORDANCE WITH THE PRIORITY SYSTEM
12 ESTABLISHED IN ARTICLE 92 OF THIS TITLE.

13 (2) THE GENERAL ASSEMBLY DECLARES THAT NOTHING IN THIS
14 ARTICLE IS INTENDED TO INFRINGE UPON OR IMPAIR THE DOCTRINE OF
15 PRIOR APPROPRIATION.

16 (3) THE GENERAL ASSEMBLY FURTHER DECLARES THAT THE USE OF

1 A RAIN BARREL DOES NOT CONSTITUTE A WATER RIGHT.

2 **37-96.5-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
3 CONTEXT OTHERWISE REQUIRES:

4 (1) "RAIN BARREL" MEANS A STORAGE CONTAINER WITH A
5 SEALABLE LID THAT IS:

6 (a) LOCATED ABOVEGROUND OUTSIDE OF A RESIDENTIAL HOME;
7 AND

8 (b) USED FOR COLLECTING PRECIPITATION FROM A DOWNSPOUT OF
9 A ROOFTOP.

10 (2) "SINGLE-FAMILY RESIDENCE" MEANS A PRIVATE RESIDENCE
11 THAT IS A SEPARATE BUILDING OR AN INDIVIDUAL RESIDENCE THAT IS PART
12 OF A ROW OF RESIDENCES JOINED BY COMMON SIDEWALLS.

13 **37-96.5-103. Small-capacity rooftop precipitation collection**
14 **permitted.** (1) PRECIPITATION FROM A ROOFTOP MAY BE COLLECTED IF:

15 (a) NO MORE THAN TWO RAIN BARRELS WITH A COMBINED
16 STORAGE CAPACITY OF ONE HUNDRED TEN GALLONS OR LESS ARE
17 UTILIZED;

18 (b) PRECIPITATION IS COLLECTED FROM THE ROOFTOP OF A
19 BUILDING THAT IS USED PRIMARILY AS A SINGLE-FAMILY RESIDENCE OR A
20 MULTI-FAMILY RESIDENCE WITH FOUR OR FEWER UNITS;

21 (c) THE COLLECTED PRECIPITATION IS USED FOR OUTDOOR
22 PURPOSES INCLUDING IRRIGATION OF LAWNS AND GARDENS; AND

23 (d) THE COLLECTED PRECIPITATION IS USED ON THE RESIDENTIAL
24 PROPERTY ON WHICH THE PRECIPITATION IS COLLECTED.

25 (2) A PERSON SHALL NOT USE PRECIPITATION COLLECTED UNDER
26 THIS ARTICLE FOR DRINKING WATER OR INDOOR HOUSEHOLD PURPOSES.

27 (3) THE STATE ENGINEER MAY CURTAIL RAIN BARREL USAGE

1 PURSUANT TO SECTION 37-92-502 (2) (a).

2 **37-96.5-104. Information on state engineer's website.** (1) THE
3 STATE ENGINEER, TO THE EXTENT PRACTICABLE WITHIN EXISTING
4 RESOURCES, SHALL PROVIDE INFORMATION ON THE STATE ENGINEER'S
5 WEBSITE ON THE PERMITTED USE OF RAIN BARRELS TO COLLECT
6 PRECIPITATION FROM RESIDENTIAL ROOFTOPS, INCLUDING A DESCRIPTION
7 OF THE LIMITATIONS SET FORTH IN SECTION 37-96.5-103.

8 (2) IF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
9 INFORMS THE STATE ENGINEER THAT IT HAS DEVELOPED BEST PRACTICES
10 IN ACCORDANCE WITH SECTION 25-1.5-210, C.R.S., THE STATE ENGINEER
11 SHALL, TO THE EXTENT PRACTICABLE WITHIN EXISTING RESOURCES, POST
12 OR LINK TO THE DEPARTMENT'S BEST PRACTICES ON THE STATE ENGINEER'S
13 WEBSITE.

14 **37-96.5-104. Reporting.** (1) ON OR BEFORE MARCH 1, 2019, AND
15 ON OR BEFORE MARCH 1, 2022, THE STATE ENGINEER SHALL REPORT TO
16 THE COMMITTEES OF REFERENCE IN EACH HOUSE OF THE GENERAL
17 ASSEMBLY WITH JURISDICTION OVER AGRICULTURE ON WHETHER THE
18 ALLOWANCE OF SMALL-SCALE RESIDENTIAL PRECIPITATION COLLECTION
19 PURSUANT TO THIS ARTICLE HAS CAUSED ANY DISCERNIBLE INJURY TO
20 DOWNSTREAM WATER RIGHTS. THE STATE ENGINEER'S REPORT MAY
21 CONTAIN THE FOLLOWING:

22 (a) DATA RECEIVED FROM WATER PROVIDERS, WATER USERS, OR
23 OTHER STAKEHOLDERS;

24 (b) DATA RESULTING FROM A PRECIPITATION COLLECTION PILOT
25 PROJECT OR OTHER RESEARCH; OR

26 (c) ANY COMPLAINT OR REPORT OF INJURY.

27 **SECTION 2.** In Colorado Revised Statutes, **add** 25-1.5-210 as

1 follows:

2 **25-1.5-210. Best practices for residential rooftop precipitation**

3 **collection.** (1) WITH RESPECT TO THE USE OF A RAIN BARREL, AS DEFINED
4 IN SECTION 37-96.5-102 (1), C.R.S., TO COLLECT PRECIPITATION FROM A
5 RESIDENTIAL ROOFTOP PURSUANT TO SECTION 37-96.5-103, C.R.S., THE
6 DEPARTMENT, TO THE EXTENT PRACTICABLE WITHIN EXISTING RESOURCES,
7 SHALL DEVELOP BEST PRACTICES FOR:

8 (a) NONPOTABLE USAGE OF THE COLLECTED PRECIPITATION; AND

9 (b) DISEASE AND PEST VECTOR CONTROL.

10 (2) IF THE DEPARTMENT DEVELOPS BEST PRACTICES IN
11 ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION, THE DEPARTMENT
12 SHALL:

13 (a) POST THE BEST PRACTICES ON THE DEPARTMENT'S WEBSITE;

14 AND

15 (b) INFORM THE STATE ENGINEER OF THE BEST PRACTICES SO THAT
16 THE STATE ENGINEER CAN EITHER POST OR LINK TO THE DEPARTMENT'S
17 BEST PRACTICES ON THE STATE ENGINEER'S WEBSITE.

18 **SECTION 3.** In Colorado Revised Statutes, 38-33.3-106.5, **add**
19 (1) (j) as follows:

20 **38-33.3-106.5. Prohibitions contrary to public policy -**
21 **patriotic and political expression - emergency vehicles - fire**
22 **prevention - renewable energy generation devices - affordable**
23 **housing - drought prevention measures - definitions.**

24 (1) Notwithstanding any provision in the declaration, bylaws, or rules
25 and regulations of the association to the contrary, an association shall not
26 prohibit any of the following:

27 (j) (I) THE USE OF A RAIN BARREL, AS DEFINED IN SECTION

1 37-96.5-102 (1), C.R.S., TO COLLECT PRECIPITATION FROM A RESIDENTIAL
2 ROOFTOP IN ACCORDANCE WITH SECTION 37-96.5-103, C.R.S.

3 (II) THIS PARAGRAPH (j) DOES NOT CONFER UPON A RESIDENT OF
4 A COMMON INTEREST COMMUNITY THE RIGHT TO PLACE A RAIN BARREL ON
5 PROPERTY OR TO CONNECT A RAIN BARREL TO ANY PROPERTY THAT IS:

6 (A) LEASED, EXCEPT WITH PERMISSION OF THE LESSOR;

7 (B) A COMMON ELEMENT OR A LIMITED COMMON ELEMENT OF A
8 COMMON INTEREST COMMUNITY;

9 (C) MAINTAINED BY THE UNIT OWNERS' ASSOCIATION FOR A
10 COMMON INTEREST COMMUNITY; OR

11 (D) ATTACHED TO ONE OR MORE OTHER UNITS, EXCEPT WITH
12 PERMISSION OF THE OWNERS OF THE OTHER UNITS.

13 (III) A COMMON INTEREST COMMUNITY MAY IMPOSE REASONABLE
14 AESTHETIC REQUIREMENTS THAT GOVERN THE PLACEMENT OR EXTERNAL
15 APPEARANCE OF A RAIN BARREL.

16 **SECTION 4. Act subject to petition - effective date.** This act
17 takes effect at 12:01 a.m. on the day following the expiration of the
18 ninety-day period after final adjournment of the general assembly (August
19 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
20 referendum petition is filed pursuant to section 1 (3) of article V of the
21 state constitution against this act or an item, section, or part of this act
22 within such period, then the act, item, section, or part will not take effect
23 unless approved by the people at the general election to be held in
24 November 2016 and, in such case, will take effect on the date of the
25 official declaration of the vote thereon by the governor.