A BILL FOR AN ACT

CONCERNING MODIFICATION OF THE LAWS GOVERNING THE

ESTABLISHMENT OF DRILLING UNITS FOR OIL AND GAS WELLS,

AND, IN CONNECTION THEREWITH, CLARIFYING THAT A

DRILLING UNIT MAY INCLUDE MORE THAN ONE WELL,

PROVIDING LIMITED IMMUNITY TO NONCONSENTING OWNERS

SUBJECT TO POOLING ORDERS, ADJUSTING COST RECOVERY

FROM NONCONSENTING OWNERS, AND MODIFYING THE

CONDITIONS UPON WHICH A POOLING ORDER MAY BE ENTERED.

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
Current law authorizes "forced" or "statutory" pooling, a process by which any interested person—typically an oil and gas operator—may apply to the Colorado oil and gas conservation commission (commission) for an order to pool oil and gas resources located within a particularly identified drilling unit. After giving notice to interested parties and holding a hearing, the commission can adopt an order to require an owner of oil and gas resources within the drilling unit who has not consented to the application (nonconsenting owner) to allow an oil and gas operator to produce the oil and gas within the drilling unit notwithstanding the owners lack of consent.

The bill clarifies that an order entered by the commission establishing a drilling unit may authorize more than one well. The order must specify that a nonconsenting owner is immune from liability for costs arising from spills, releases, damage, or injury resulting from oil and gas operations on the drilling unit.

Currently, a nonconsenting owner must pay the consenting owners from the nonconsenting owner's share of production 200% of the nonconsenting owner's proportionate share of the costs of drilling, including equipment. The bill limits this 200% cost recovery to wells 5,000 feet or less in depth and increases the cost recovery to 300% for wells greater than 5,000 feet in depth and for horizontal wells.

Current law prohibits entry of a pooling order until the mineral rights owners have been given a reasonable offer to lease their rights. The bill specifies that the offer must be given at least 60 days before the hearing on the order and must include a copy of or link to a brochure supplied by the commission that clearly and concisely describes the pooling procedures and the mineral owner's options pursuant to those procedures.

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

SECTION 1. In Colorado Revised Statutes, 34-60-116, amend (1), (3), (7), and (8) as follows:

34-60-116. Drilling units - pooling interests. (1) To prevent or to assist in preventing waste, to avoid the drilling of unnecessary wells, or to protect correlative rights, the commission, upon its own motion or on a proper application of an interested party, but after notice and hearing as provided in this section, has the power to
drilling units of specified and approximately uniform size and shape covering any pool OR PORTION OF A POOL.

(3) The order establishing drilling units shall permit only one well A DRILLING UNIT MAY AUTHORIZE ONE OR MORE WELLS to be drilled and produced from the common source of supply on a drilling unit. and shall specify the location of the permitted well thereon, with such exception for the location of the permitted well as may be reasonably necessary for wells already drilled or where it is shown upon application, notice, and hearing, and the commission finds, that the drilling unit is located partly outside the pool or field and adjacent to a producing unit, or, for some other reason, the requirement to drill the well at the authorized location on the unit would be inequitable or unreasonable. The commission shall take such action as will offset any advantage which the person securing the exception may have over other producers by reason of the drilling of the well as an exception, and include in the order suitable provisions to prevent the production from the drilling unit of more than its just and equitable share of the oil and gas in the pool:

(7) (a) Each such pooling order shall MUST:

(I) Make provision for the drilling of a well ONE OR MORE WELLS on the drilling unit, if not already drilled, for the operation thereof OF THE WELLS, and for the payment of the reasonable actual cost thereof OF THE WELLS, including a reasonable charge for supervision and storage. Except as provided in paragraph (c) of this subsection (7) (7)(c) OF THIS SECTION, as to each nonconsenting owner who refuses to agree to bear his A proportionate share of the costs and risks of drilling and operating the well WELLS, the order shall MUST provide for reimbursement to the consenting owners who pay for the drilling and operation of the well THE
COSTS of the nonconsenting owner's PROPORTIONATE share of the costs and risks of such drilling and operating out of, and only out of, production from the unit representing his THE OWNER'S interest, excluding royalty or other interest not obligated to pay any part of the cost thereof, IF AND TO THE EXTENT THAT THE ROYALTY IS CONSISTENT WITH THE LEASE TERMS PREVAILING IN THE AREA AND IS NOT DESIGNED TO AVOID THE RECOVERY OF COSTS PROVIDED FOR IN SUBSECTION (7)(b) OF THIS SECTION. In the event of any dispute as to such THE costs, the commission shall determine the proper costs as specified in paragraph (b) of this subsection (7). The order shall SUBSECTION (7)(b) OF THIS SECTION.

(II) Determine the interest of each owner in the unit and shall provide that each consenting owner is entitled to receive, subject to royalty or similar obligations, the share of the production of the well FROM THE WELLS applicable to his THE OWNER'S interest in the drilling unit WELLS and, unless he THE OWNER has agreed otherwise, his A proportionate part of the nonconsenting owner's share of such THE production until costs are recovered and that each nonconsenting owner is entitled to own and to receive the share of the production applicable to his THE OWNER'S interest in the unit after the consenting owners have recovered the nonconsenting owner's share OF THE COSTS out of production; AND

(III) SPECIFY THAT A NONCONSENTING OWNER IS IMMUNE FROM LIABILITY FOR COSTS ARISING FROM SPILLS, RELEASES, DAMAGE, OR INJURY RESULTING FROM OIL AND GAS OPERATIONS ON THE DRILLING UNIT.

(b) Upon the determination of the commission, proper costs recovered by the consenting owners of a drilling unit from the nonconsenting owner's share of production from such a unit shall be as
follows:

(I) One hundred percent of the nonconsenting owner's share of the cost of surface equipment beyond the wellhead connections, including but not limited to, stock tanks, separators, treaters, pumping equipment, and piping, plus one hundred percent of the nonconsenting owner's share of the cost of operation of the well or wells commencing with first production and continuing until the consenting owners have recovered such costs. It is the intent that the nonconsenting owner's share of these costs of equipment and operation will be that interest which would have been chargeable to the nonconsenting owner had he initially agreed to pay his share of the costs of the well or wells from the beginning of the operation.

(II) For wells five thousand feet or less in measured depth that are not horizontal wells, two hundred percent of that portion of the costs and expenses of staking, well site preparation, obtaining rights-of-way, rigging up, drilling, reworking, deepening or plugging back, testing, and completing the well, after deducting any cash contributions received by the consenting owners, and two hundred percent of that portion of the cost of equipment in the well, including the wellhead connections. For wells greater than five thousand feet in measured depth and for horizontal wells, the cost recovery percentage applicable to the expense is three hundred percent.

(c) A nonconsenting owner of a tract in a drilling unit which is not subject to any lease or other contract for the development thereof for oil and gas shall be deemed to have a landowner's proportionate royalty of twelve and one-half percent until such time as the consenting owners recover, only out of the nonconsenting owner's
proportionate *seven-eighths* EIGHTY-FIVE PERCENT share of production, the costs specified in paragraph (b) of this subsection (7) (7)(b) OF THIS SECTION. After recovery of such THE costs, the nonconsenting owner shall then own OWNS his OR HER FULL proportionate eight-eighths share of the well WELLS, surface facilities, and production and then be IS liable for further costs as if he THE OWNER had originally agreed to drilling of the well WELLS.

(d) (I) No An order pooling an unleased nonconsenting mineral owner shall NOT be entered by the commission under the provisions of subsection (6) of this section over protest of such THE owner until UNLESS the commission shall have HAS received evidence that such THE unleased mineral owner shall have HAS been tendered, NO LESS THAN SIXTY DAYS BEFORE THE HEARING, a reasonable offer to lease upon terms no less favorable than those currently prevailing in the area at the time application for such THE order is made and that such unleased mineral owner shall have HAS been furnished in writing such THE owner's share of the estimated drilling and completion cost of the well WELLS, the location and objective depth of the well WELLS, and the estimated spud date for the well WELLS or range of time within which spudding is to occur. The offer must include a copy of or link to a brochure supplied by the commission that clearly and concisely describes the pooling procedures specified in this section and the mineral owner's options pursuant to those procedures.

(II) During the period of cost recovery provided in this subsection (7), the commission shall retain retains jurisdiction to determine the reasonableness of costs of operation of the well WELLS attributable to the interest of such THE nonconsenting owner.
(8) The operator of a well under a pooling order in which there is a nonconsenting owner shall furnish the nonconsenting owner with a monthly statement of all costs incurred, together with the quantity of oil or gas produced, and the amount of proceeds realized from the sale of production during the preceding month. If the consenting owners recover the costs specified in subsection (7) of this section, the nonconsenting owner shall own the same interest in the well and the production therefrom, and be liable for the further costs of the operation, as if he had participated in the initial drilling operation.

SECTION 2. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a referendum petition is filed pursuant to section 1(3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to conduct occurring on or after the applicable effective date of this act.