

CHAPTER 66

PROPERTY

HOUSE BILL 08-1014

BY REPRESENTATIVE(S) Looper, Borodkin, Curry, Garza-Hicks, Hodge, Kerr J., Lambert, Liston, Rose, and Soper;
also SENATOR(S) Gordon.

AN ACT

CONCERNING A REQUIREMENT TO TRANSFER A WELL PERMIT UPON CONVEYANCE OF RESIDENTIAL REAL PROPERTY.

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

SECTION 1. 38-30-102, Colorado Revised Statutes, is amended to read:

38-30-102. Water rights conveyed as real estate - well permit transfers - legislative declaration - definitions - rules. (1) THE GENERAL ASSEMBLY:

(a) FINDS THAT THE DIVISION OF WATER RESOURCES IN THE DEPARTMENT OF NATURAL RESOURCES NEEDS TIMELY AND ACCURATE DATA REGARDING WELL OWNERSHIP IN ORDER TO EFFICIENTLY AND ACCURATELY ACCOUNT FOR WELLS AND TO ENSURE THAT WELLS ARE PROPERLY CONSTRUCTED AND MAINTAINED;

(b) DETERMINES THAT CURRENT DATA CONCERNING WELL OWNERSHIP IS INADEQUATE AND THAT A SUBSTANTIAL NUMBER OF RESIDENTIAL REAL ESTATE TRANSACTIONS THAT TRANSFER OWNERSHIP OF A WELL ARE NOT REPORTED TO THE DIVISION;

(c) DETERMINES THAT CURRENT AND ACCURATE DATA IS NECESSARY FOR THE STATE TO NOTIFY WELL OWNERS OF ANY HEALTH, SAFETY, WATER RIGHT, OR STEWARDSHIP ISSUES PERTAINING TO THEIR GROUND WATER WELL; AND

(d) DECLARES THAT THIS SECTION IS INTENDED TO PROVIDE THE DIVISION WITH THE INFORMATION IT NEEDS TO PROPERLY CARRY OUT ITS STATUTORY DUTIES.

(2) In the conveyance of water rights in all cases, except where the ownership of stock in ditch companies or other companies constitutes the ownership of a water

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

right, the same formalities shall be observed and complied with as in the conveyance of real estate.

(3) (a) AS USED IN THIS SUBSECTION (3):

(I) "CLOSING SERVICE" MEANS CLOSING AND SETTLEMENT SERVICES, AS DEFINED IN SECTION 10-11-102, C.R.S.

(II) "DIVISION" MEANS THE DIVISION OF WATER RESOURCES IN THE DEPARTMENT OF NATURAL RESOURCES.

(III) "PERSON" MEANS ANY INDIVIDUAL, CORPORATION, GOVERNMENT OR GOVERNMENTAL SUBDIVISION OR AGENCY, BUSINESS TRUST, ESTATE, TRUST, LIMITED LIABILITY COMPANY, PARTNERSHIP, ASSOCIATION, OR OTHER LEGAL ENTITY.

(b) (I) ON AND AFTER JANUARY 1, 2009, WHEN A BUYER OF RESIDENTIAL REAL ESTATE ENTERS INTO A TRANSACTION THAT RESULTS IN THE TRANSFER OF OWNERSHIP OF A SMALL CAPACITY WELL LISTED IN SECTION 37-90-105 (1) (a) OR (1) (b), C.R.S., OR A DOMESTIC EXEMPT WATER WELL USED FOR ORDINARY HOUSEHOLD PURPOSES THAT IS LISTED IN SECTION 37-92-602 (1) (b) OR (1) (e), C.R.S., THE BUYER SHALL, PRIOR TO OR AT CLOSING OF THE TRANSACTION, COMPLETE A CHANGE IN OWNERSHIP FORM FOR THE WELL IN COMPLIANCE WITH SECTION 37-90-143, C.R.S.; EXCEPT THAT, IF AN EXISTING WELL HAS NOT YET BEEN REGISTERED WITH THE DIVISION, THE BUYER SHALL COMPLETE A REGISTRATION OF EXISTING WELL FORM FOR THE WELL.

(II) THE RESIDENTIAL REAL ESTATE CONTRACT APPROVED BY THE REAL ESTATE COMMISSION CREATED IN SECTION 12-61-105, C.R.S., SHALL REQUIRE THE BUYER TO COMPLETE THE APPROPRIATE FORM FOR THE WELL AND, IF NO PERSON WILL BE PROVIDING A CLOSING SERVICE IN CONNECTION WITH THE TRANSACTION, TO FILE THE FORM WITH THE DIVISION WITHIN SIXTY DAYS AFTER CLOSING.

(c) (I) IF A PERSON PROVIDES A CLOSING SERVICE IN CONNECTION WITH A RESIDENTIAL REAL ESTATE TRANSACTION SUBJECT TO THIS SUBSECTION (3), THAT PERSON SHALL:

(A) WITHIN SIXTY DAYS AFTER CLOSING, SUBMIT THE APPROPRIATE FORM TO THE DIVISION WITH AS MUCH INFORMATION AS IS AVAILABLE, AND THE DIVISION SHALL BE RESPONSIBLE FOR OBTAINING THE NECESSARY WELL REGISTRATION INFORMATION DIRECTLY FROM THE BUYER; AND

(B) NOT BE LIABLE FOR DELAYING THE CLOSING OF THE TRANSACTION IN ORDER TO ENSURE THAT THE BUYER COMPLETES THE FORM REQUIRED BY SUBPARAGRAPH (I) OF PARAGRAPH (b) OF THIS SUBSECTION (3). IF THE CLOSING IS DELAYED PURSUANT TO THIS SUB-SUBPARAGRAPH (B), NEITHER THE BUYER NOR THE SELLER SHALL HAVE ANY CLAIM UNDER THIS SECTION FOR RELIEF AGAINST THE BUYER, THE SELLER, THE PERSON WHO PROVIDED CLOSING SERVICES, A TITLE INSURANCE COMPANY REGULATED PURSUANT TO ARTICLE 11 OF TITLE 10, C.R.S., OR ANY PERSON LICENSED PURSUANT TO ARTICLE 61 OF TITLE 12, C.R.S.

(II) IF NO PERSON PROVIDES SUCH CLOSING SERVICE, THE BUYER SHALL SUBMIT

THE APPROPRIATE FORM WITHIN THE DEADLINE SPECIFIED IN SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (c) AND PAY THE APPLICABLE FEE.

SECTION 2. Effective date - applicability. (1) This act shall take effect January 1, 2009.

(2) However, if a referendum petition is filed against this act or an item, section, or part of this act during the 90-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, then the act, item, section, or part, shall not take effect unless approved by the people at a biennial regular general election and shall take effect on the date specified in subsection (1) or on the date of the official declaration of the vote thereon by proclamation of the governor, whichever is later.

(3) The provisions of this act shall apply to conveyances of wells occurring on or after the applicable effective date of this act.

Approved: March 26, 2008