

**First Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 17-0819.01 Duane Gall x4335

**SENATE BILL 17-097**

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**SENATE SPONSORSHIP**

**Martinez Humenik**, Court, Gardner, Lundberg, Moreno

**HOUSE SPONSORSHIP**

**Coleman**,

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**Senate Committees**  
Judiciary

**House Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING THE PRESUMPTION THAT A CONVEYANCE OF AN**  
102                    **INTEREST IN LAND ALSO CONVEYS AN INTEREST IN ADJOINING**  
103                    **PROPERTY CONSISTING OF A VACATED RIGHT-OF-WAY.**

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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://leg.colorado.gov>.)*

Under current law, a conveyance by warranty deed carries the presumption that the grantor's interest in an adjoining vacated street, alley, or other right-of-way is included with the property whose legal description is contained in the deed. However, this presumption does not apply to other types of deeds or to a lease, mortgage, or other conveyance

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.*

or encumbrance.

The bill removes the language containing the presumption from the warranty deed statute and relocates it, with amendments, so as to broaden the application of the presumption of conveyance of an adjoining vacated right-of-way to include not only warranty deeds but also all forms of deeds, leases, and mortgages and other liens.

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

2           **SECTION 1.** In Colorado Revised Statutes, 38-30-113, **repeal**  
3 (1)(d) as follows:

4           **38-30-113. Deeds - short form - acknowledgment - effect.**  
5 (1) (d) ~~Every deed in substance in the above form, when properly~~  
6 ~~executed, shall be a conveyance of the grantor's interest, if any, in any~~  
7 ~~vacated street, alley, or other right-of-way that adjoins the real property~~  
8 ~~unless the transfer of such interest is expressly excluded in the deed.~~

9           **SECTION 2.** In Colorado Revised Statutes, **add** 38-30-104.5 as  
10 follows:

11           **38-30-104.5. Grantor's interest in vacated right-of-way**  
12 **deemed included.** EVERY CONVEYANCE OR ENCUMBRANCE OF REAL  
13 PROPERTY, VOLUNTARY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO  
14 ANY FORM OF DEED, LEASE, MORTGAGE, OR LIEN, IS DEEMED TO INCLUDE  
15 THE GRANTOR'S INTEREST, IF ANY, IN ANY VACATED STREET, ALLEY, OR  
16 OTHER RIGHT-OF-WAY THAT ADJOINS THE REAL PROPERTY UNLESS THE  
17 INTEREST IS EXPRESSLY EXCLUDED BY THE TERMS OF THE CONVEYANCE OR  
18 ENCUMBRANCE.

19           **SECTION 3. Act subject to petition - effective date.** This act  
20 takes effect at 12:01 a.m. on the day following the expiration of the  
21 ninety-day period after final adjournment of the general assembly (August  
22 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a

1 referendum petition is filed pursuant to section 1 (3) of article V of the  
2 state constitution against this act or an item, section, or part of this act  
3 within such period, then the act, item, section, or part will not take effect  
4 unless approved by the people at the general election to be held in  
5 November 2018 and, in such case, will take effect on the date of the  
6 official declaration of the vote thereon by the governor.