

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 17-0819.01 Duane Gall x4335

SENATE BILL 17-097

SENATE SPONSORSHIP

Martinez Humenik, Court, Gardner, Lundberg, Moreno

HOUSE SPONSORSHIP

Coleman,

Senate Committees
Judiciary

House Committees

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.**

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.

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, DEED OF TRUST, MORTGAGE, OR LIEN, IS
15 DEEMED TO INCLUDE THE GRANTOR'S INTEREST, IF ANY, IN ANY VACATED
16 STREET, ALLEY, OR OTHER RIGHT-OF-WAY THAT ADJOINS THE REAL
17 PROPERTY UNLESS THE INTEREST IS EXPRESSLY EXCLUDED BY THE TERMS
18 OF THE CONVEYANCE OR 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.