

CHAPTER 9

PROPERTY

HOUSE BILL 97-1016

BY REPRESENTATIVES S. Johnson, Agler, and Smith;
also SENATOR Reeves.

AN ACT

CONCERNING THE RECORDING OF INSTRUMENTS CONVEYING REAL PROPERTY TO PUBLIC ENTITIES.

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

SECTION 1. Article 35 of title 38, Colorado Revised Statutes, 1982 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

38-35-109.5. Recording of instruments conveying real property to public entities. (1) ANY INSTRUMENT, INCLUDING, BUT NOT LIMITED TO, A RESOLUTION, ORDINANCE, DEED, CONVEYANCE DOCUMENT, PLAT, OR SURVEY, CONVEYING THE TITLE OF REAL PROPERTY TO THE STATE OR A POLITICAL SUBDIVISION SHALL BE RECORDED IN THE OFFICE OF THE CLERK AND RECORDER OF THE COUNTY IN WHICH SUCH REAL PROPERTY IS SITUATED WITHIN THIRTY DAYS OF SUCH CONVEYANCE. IF THE STATE OR A POLITICAL SUBDIVISION FAILS TO RECORD SUCH INSTRUMENT PURSUANT TO THIS SECTION, THE STATE OR POLITICAL SUBDIVISION SHALL BE LIABLE FOR THE AMOUNT OF INTEREST INCURRED BY THE COUNTY PURSUANT TO THE PROVISIONS OF SECTION 39-12-111, C.R.S., DUE TO SUCH FAILURE TO RECORD.

(2) FOR PURPOSES OF SATISFYING THE RECORDING REQUIREMENT IN SUBSECTION (1) OF THIS SECTION, THE EXECUTIVE DIRECTOR OF THE APPROPRIATE STATE DEPARTMENT OR HIS OR HER DESIGNEE SHALL RECORD ANY INSTRUMENT CONVEYING THE TITLE OF REAL PROPERTY TO THE STATE, AND A POLITICAL SUBDIVISION SHALL DESIGNATE AN APPROPRIATE OFFICIAL OR OFFICIALS WHO SHALL RECORD ANY INSTRUMENT CONVEYING THE TITLE OF REAL PROPERTY TO THE POLITICAL SUBDIVISION.

(3) FOR PURPOSES OF THIS SECTION, "POLITICAL SUBDIVISION" MEANS A COUNTY, CITY AND COUNTY, CITY, TOWN, SERVICE AUTHORITY, SCHOOL DISTRICT, LOCAL IMPROVEMENT DISTRICT, LAW ENFORCEMENT AUTHORITY, WATER, SANITATION, FIRE

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

PROTECTION, METROPOLITAN, IRRIGATION, DRAINAGE, OR OTHER SPECIAL DISTRICT OR ANY OTHER KIND OF MUNICIPAL, QUASI-MUNICIPAL, OR PUBLIC CORPORATION ORGANIZED PURSUANT TO LAW.

SECTION 2. 38-35-109 (1), Colorado Revised Statutes, 1982 Repl. Vol., as amended, is amended to read:

38-35-109. Instrument may be recorded - validity of unrecorded instruments - liability for fraudulent documents. (1) All deeds, powers of attorney, agreements, or other instruments in writing conveying, encumbering, or affecting the title to real property, certificates, and certified copies of orders, judgments, and decrees of courts of record may be recorded in the office of the county clerk and recorder of the county where such real property is situated; EXCEPT THAT ALL INSTRUMENTS CONVEYING THE TITLE OF REAL PROPERTY TO THE STATE OR A POLITICAL SUBDIVISION SHALL BE RECORDED PURSUANT TO SECTION 38-35-109.5. No such unrecorded instrument or document shall be valid against any person with any kind of rights in or to such real property who first records and those holding rights under such person, except between the parties thereto and against those having notice thereof prior to acquisition of such rights. This is a race-notice recording statute. In all cases where by law an instrument may be filed in the office of a county clerk and recorder, the filing thereof in such office shall be equivalent to the recording thereof, and the recording thereof in the office of such county clerk and recorder shall be equivalent to the filing thereof.

SECTION 3. Effective date - applicability. This act shall take effect July 1, 1997, and shall apply to conveyances made to public entities on or after said date.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: March 20, 1997