

CHAPTER 237

GOVERNMENT - STATE

HOUSE BILL 02-1357

BY REPRESENTATIVE(S) Rippy, Crane, Fritz, and Hoppe;
also SENATOR(S) Isgar, Entz, Hernandez, Taylor, and Teck.

AN ACT

CONCERNING MODIFICATION OF THE REQUIREMENTS RELATING TO NOTIFICATION OF SURFACE DEVELOPMENT TO OWNERS OF SEVERED MINERAL ESTATES.

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

SECTION 1. 24-65.5-102 (2) and (4), Colorado Revised Statutes, are amended to read:

24-65.5-102. Definitions. As used in this article, unless the context otherwise requires:

(2) "Application for development" means an application for a preliminary or final plat for a subdivision, a planned unit development, or any other similar land use designation that is used by a local government. "Application for development" includes applications for ~~zoning, rezoning,~~ general development plans and special use permits where such applications are in anticipation of new surface development, but does not include building permit applications, APPLICATIONS FOR A CHANGE OF USE FOR AN EXISTING STRUCTURE, APPLICATIONS FOR BOUNDARY ADJUSTMENTS, APPLICATIONS FOR PLATTING OF AN ADDITIONAL SINGLE LOT, APPLICATIONS FOR LOT SITE PLANS, OR APPLICATIONS WITH RESPECT TO ELECTRIC LINES, NATURAL GAS PIPELINES, STEAM PIPELINES, CHILLED AND OTHER WATER PIPELINES, OR APPURTENANCES TO SAID LINES OR PIPELINES.

(4) "Mineral estate" means ~~an~~ A MINERAL interest in real property that is ~~less than full fee title and that includes mineral rights as shown by the real estate records of the county in which the real property is situated~~ SHOWN BY THE REAL ESTATE RECORDS OF THE COUNTY IN WHICH THE REAL PROPERTY IS SITUATED AND THAT IS NOT OWNED AS PART OF THE FULL FEE TITLE TO THE REAL PROPERTY.

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

SECTION 2. The introductory portion to 24-65.5-103 (2) (a) and 24-65.5-103 (2) (a) (I) and (2) (b), Colorado Revised Statutes, are amended, and the said 24-65.5-103 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

24-65.5-103. Notice requirements. (1.5) IF AN APPLICANT FILES MORE THAN ONE APPLICATION FOR DEVELOPMENT FOR THE SAME NEW SURFACE DEVELOPMENT WITH A LOCAL GOVERNMENT, THE APPLICANT SHALL ONLY BE REQUIRED TO SEND NOTICE PURSUANT TO SUBSECTION (1) OF THIS SECTION OF THE INITIAL PUBLIC HEARING SCHEDULED FOR THE FIRST APPLICATION FOR DEVELOPMENT TO BE CONSIDERED BY THE LOCAL GOVERNMENT. LOCAL GOVERNMENTS SHALL, PURSUANT TO SECTION 24-6-402 (7), PROVIDE NOTICE OF SUBSEQUENT HEARINGS TO MINERAL ESTATE OWNERS WHO REGISTER FOR SUCH NOTIFICATION.

(2) (a) The applicant shall identify the mineral estate owner by examining the records in the office of the county clerk and recorder of the county in which the real property is located. Notice shall be sent to the LAST-KNOWN ADDRESS OF RECORD OF THE mineral estate owner if the records in the office of the county clerk and recorder establish:

(I) The identity AND ADDRESS OF RECORD of the owner of the mineral estate; or

(b) If such records do not identify any mineral estate owners, INCLUDING THEIR ADDRESSES OF RECORD, the applicant shall be deemed to have acted in good faith and shall not be subject to further obligations under this article. The applicant shall not be liable for any errors or omissions in such records.

(6) BEFORE COMPLETING THE SALE OF A MINERAL ESTATE, A MINERAL ESTATE OWNER WHO HAS RECEIVED NOTICE AS THE OWNER OF THE MINERAL ESTATE OF A PUBLIC HEARING WITH RESPECT TO AN APPLICATION FOR DEVELOPMENT PURSUANT TO THIS SECTION SHALL NOTIFY THE BUYER OF THE MINERAL ESTATE OF THE EXISTENCE OF THE APPLICATION FOR DEVELOPMENT.

SECTION 3. The introductory portion to 24-65.5-104 (2), Colorado Revised Statutes, is amended to read:

24-65.5-104. Enforcement. (2) If no mineral estate owner or agent has filed a request for notification form pursuant to section 24-65.5-103 (3), in determining those mineral estate owners entitled to notice pursuant to section 24-65.5-103 or 31-23-215, C.R.S., any surface owner required to provide such notice shall be entitled to rely on a listing of such parties prepared by an attorney licensed to practice law in the state of Colorado, a title insurance company licensed to do business in the state of Colorado, a CERTIFIED PROFESSIONAL LANDMAN CERTIFIED BY THE AMERICAN ASSOCIATION OF PROFESSIONAL LANDMEN, or a title insurance agent licensed in such capacity by the state of Colorado. The provisions of any law to the contrary notwithstanding, if a surface owner provides the required notice in a timely manner to a party named in such listing or whose identity is disclosed in a request filed pursuant to section 24-65.5-103 (3) at the address of such party as that address appears in such listing, such party shall be deemed to have constructively received the required notice, and the surface owner shall be deemed to have otherwise complied with the notice requirements of sections 24-65.5-103 and 31-23-215, C.R.S. In such

event, the surface owner shall not have any liability to any mineral estate owner or other party deemed to have constructively received such notice for any legal or equitable remedy or relief arising from, in connection with, or otherwise relating to the application for development, any development activities commenced on the surface of the real property, any inability or impediment or other hindrance to drilling operations or other development of the mineral estate or any portion thereof, or any actual failure to receive any notice required by section 24-65.5-103 or 31-23-215, C.R.S., unless:

SECTION 4. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-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; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: May 30, 2002