

CHAPTER 2

GOVERNMENT - STATE

HOUSE BILL 03-1302

BY REPRESENTATIVE(S) Rippy, Brophy, Frangas, Hoppe, and Miller;
also SENATOR(S) Kester and Entz.

AN ACT

CONCERNING CLARIFICATION OF THE APPLICABILITY OF STATUTORY PROVISIONS THAT ENACTED CERTAIN NOTIFICATION REQUIREMENTS AFFECTING ONLY THOSE APPLICATIONS FOR DEVELOPMENT FILED ON OR AFTER JULY 1, 2001.

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

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

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

(2) (a) "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 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.

(b) (I) THE GENERAL ASSEMBLY HEREBY FINDS THAT:

(A) PURSUANT TO SECTION 2-4-202, C.R.S., STATUTES ARE PRESUMED TO HAVE ONLY PROSPECTIVE EFFECT, AND UNDER APPLICABLE CASE LAW THIS PRESUMPTION APPLIES UNLESS THE GENERAL ASSEMBLY'S CONTRARY INTENT IS CLEARLY EXPRESSED; AND

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

(B) HOUSE BILL 01-1088, WHICH ENACTED THIS ARTICLE, DID NOT CONTAIN AN APPLICABILITY CLAUSE AND WAS SILENT WITH REGARD TO THE ISSUE OF WHETHER THE REQUIREMENTS OF THIS ARTICLE APPLY TO APPLICATIONS FOR DEVELOPMENT THAT WERE PENDING ON JULY 1, 2001, THE EFFECTIVE DATE OF HOUSE BILL 01-1088.

(II) THE GENERAL ASSEMBLY HEREBY DETERMINES THAT, NOTWITHSTANDING THE FACT THAT HOUSE BILL 01-1088 DID NOT CLEARLY EXPRESS ANY INTENT OF THE GENERAL ASSEMBLY THAT THE REQUIREMENTS OF THIS ARTICLE WOULD APPLY RETROACTIVELY, THERE IS UNCERTAINTY CONCERNING WHETHER SUCH REQUIREMENTS SHOULD APPLY RETROACTIVELY.

(III) TO CLARIFY ITS INTENT, THE GENERAL ASSEMBLY HEREBY DECLARES THAT THIS ARTICLE WAS INTENDED TO APPLY, AND SHOULD ONLY BE APPLIED, TO APPLICATIONS FOR DEVELOPMENT THAT WERE FILED ON OR AFTER JULY 1, 2001.

SECTION 2. 24-65.5-104 (1), Colorado Revised Statutes, is amended, and the said 24-65.5-104 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-65.5-104. Enforcement. (1) Mineral estate owners entitled to notice pursuant to section 24-65.5-103 or 31-23-215, C.R.S., shall have standing to enforce the notice requirements of those sections and, subject to the provisions of subsection (2) AND (2.5) of this section, to make claims as may be available at law or equity for noncompliance.

(2.5) WITH RESPECT TO ANY APPLICATION THAT WAS GRANTED ON OR AFTER AUGUST 7, 2002, FOR A CHANGE OF USE FOR AN EXISTING STRUCTURE, A BOUNDARY ADJUSTMENT, THE PLATTING OF AN ADDITIONAL SINGLE LOT, A LOT SITE PLAN, OR WITH RESPECT TO ELECTRIC LINES, NATURAL GAS PIPELINES, STEAM PIPELINES, CHILLED AND OTHER WATER PIPELINES, OR APPURTENANCES TO SAID LINES OR PIPELINES:

(a) A MINERAL ESTATE HOLDER WHO CLAIMS ENTITLEMENT TO NOTICE PURSUANT TO SECTION 24-65.5-103 BUT WHO ALLEGES THAT THE APPLICANT FAILED TO PROVIDE SUCH NOTICE SHALL BE LIMITED TO ONLY THE REMEDY SET FORTH IN PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION; AND

(b) NO FAILURE AS ALLEGED IN PARAGRAPH (a) OF THIS SUBSECTION (2.5) SHALL RESCIND, CURTAIL, ABROGATE, OR OTHERWISE RESTRICT ANY FINAL APPROVAL OF AN APPLICATION SPECIFIED IN THIS SUBSECTION (2.5).

SECTION 3. 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: February 26, 2003