

CHAPTER 111

GOVERNMENT - LOCAL

SENATE BILL 06-154

BY SENATOR(S) May R., Brophy, Dyer, Entz, Evans, Hanna, Jones, Keller, Lamborn, Mitchell, Shaffer, Spence, Takis, Taylor, Tochtrop, Traylor, Tupa, Wiens, and Williams;
also REPRESENTATIVE(S) Pommer, Berens, Carroll M., Carroll T., Gallegos, Gardner, Green, Hall, Hefley, Hoppe, Kerr, King, Madden, Marshall, McGihon, Paccione, Riesberg, Rose, Stafford, and Sullivan.

AN ACT

CONCERNING THE CREATION OF A CENTRAL STATUTORY REFERENCE FOR STATUTES THAT AUTHORIZE THE USE OF THE POWER OF EMINENT DOMAIN.

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

SECTION 1. Article 1 of title 38, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 2
GOVERNMENTAL ENTITIES, INDIVIDUALS, AND
CORPORATIONS AUTHORIZED TO EXERCISE THE POWER OF
EMINENT DOMAIN

38-1-201. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) THE POWER OF EMINENT DOMAIN ALLOWS THE FEDERAL GOVERNMENT, THE STATE, COUNTIES, CITIES AND COUNTIES, MUNICIPALITIES, AND VARIOUS OTHER TYPES OF GOVERNMENTAL ENTITIES TO CONDEMN PROPERTY WHEN NECESSARY FOR PUBLIC USE AND ALLOWS INDIVIDUAL PROPERTY OWNERS AND CORPORATIONS TO CONDEMN PROPERTY IN CERTAIN CIRCUMSTANCES WHEN CONDEMNATION IS NECESSARY TO CREATE A PRIVATE WAY OF NECESSITY OR TO ALLOW BENEFICIAL USE OF PRIVATE PROPERTY.

(b) ALTHOUGH BOTH THE STATE CONSTITUTION AND STATE STATUTES REQUIRE THE PAYMENT OF JUST COMPENSATION TO ANY PERSON WHOSE PROPERTY IS CONDEMNED, THE EXERCISE OF THE POWER OF EMINENT DOMAIN NONETHELESS

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

SUBSTANTIALLY IMPACTS FUNDAMENTAL PROPERTY RIGHTS.

(c) BECAUSE OF THIS SUBSTANTIAL IMPACT, IT IS NECESSARY AND APPROPRIATE TO ENSURE THAT COLORADANS CAN EASILY DETERMINE WHICH GOVERNMENTAL ENTITIES, CORPORATIONS, AND OTHER PERSONS MAY EXERCISE THE POWER OF EMINENT DOMAIN AND TO FURTHER ENSURE THAT COLORADANS CAN EASILY IDENTIFY THE PROCEDURAL REQUIREMENTS THAT ENTITIES, CORPORATIONS, AND OTHER PERSONS MUST FOLLOW WHEN EXERCISING THE POWER OF EMINENT DOMAIN.

(2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT:

(a) IN ADDITION TO COUNTIES, CITIES AND COUNTIES, AND MUNICIPALITIES THAT SERVE AS GENERAL UNITS OF GOVERNMENT IN THE STATE, THE GOVERNMENTAL STRUCTURE OF THE STATE INCLUDES A WIDE VARIETY OF SPECIAL DISTRICTS, AUTHORITIES, AND OTHER GOVERNMENTAL ENTITIES THAT SERVE LIMITED GOVERNMENTAL PURPOSES, SOME OF WHICH MAY EXERCISE THE POWER OF EMINENT DOMAIN.

(b) ALTHOUGH MANY OF THE PROVISIONS OF STATE LAW THAT AUTHORIZE GOVERNMENTAL ENTITIES, INDIVIDUALS, AND CORPORATIONS TO EXERCISE THE POWER OF EMINENT DOMAIN AND PRESCRIBE PROCEDURES THAT GOVERN THE EXERCISE OF THAT POWER ARE CONCENTRATED IN THIS ARTICLE AND IN ARTICLES 2 TO 7 OF THIS TITLE, THE PROLIFERATION THROUGHOUT THE HISTORY OF THE STATE OF SPECIAL DISTRICTS, AUTHORITIES, AND OTHER GOVERNMENTAL ENTITIES THAT SERVE LIMITED GOVERNMENTAL PURPOSES, TOGETHER WITH OTHER HISTORICAL FACTORS THAT HAVE NECESSITATED GRANTS OF EMINENT DOMAIN POWERS TO CERTAIN TYPES OF CORPORATIONS AND PERSONS, HAVE RESULTED IN THE CODIFICATION IN OTHER PARTS OF THE COLORADO REVISED STATUTES OF MANY OTHER PROVISIONS THAT AUTHORIZE THE EXERCISE OF THE POWER OF EMINENT DOMAIN.

(c) THE CODIFICATION OF PROVISIONS OF STATE LAW THAT AUTHORIZE EMINENT DOMAIN IN PARTS OF THE COLORADO REVISED STATUTES OTHER THAN THIS ARTICLE AND ARTICLES 2 TO 7 OF THIS TITLE MAKES IT DIFFICULT IN MANY CASES FOR COLORADANS TO EASILY DETERMINE, WITH RESPECT TO ANY GIVEN GOVERNMENTAL ENTITY, CORPORATION, OR PERSON:

(I) WHETHER THE GOVERNMENTAL ENTITY, CORPORATION, OR PERSON MAY EXERCISE THE POWER OF EMINENT DOMAIN; AND

(II) THE PROCEDURAL REQUIREMENTS THAT THE GOVERNMENTAL ENTITY, CORPORATION, OR PERSON MUST COMPLY WITH IN ORDER TO EXERCISE THE POWER OF EMINENT DOMAIN.

(d) IN ORDER TO HELP COLORADANS TO MORE EASILY DETERMINE WHETHER ANY GIVEN GOVERNMENTAL ENTITY, CORPORATION, OR PERSON MAY EXERCISE THE POWER OF EMINENT DOMAIN AND IDENTIFY THE PROCEDURAL REQUIREMENTS THAT THE ENTITY, CORPORATION, OR PERSON MUST FOLLOW IN EXERCISING THE POWER OF EMINENT DOMAIN, IT IS NECESSARY, APPROPRIATE, AND IN THE BEST INTERESTS OF THE STATE TO LIST IN THIS PART 2 ALL OF THE GOVERNMENTAL ENTITIES, CORPORATIONS, AND PERSONS THAT MAY EXERCISE THE POWER OF EMINENT DOMAIN

PURSUANT TO PROVISIONS OF STATE LAW AND TO CLARIFY THAT THE PROCEDURAL REQUIREMENTS SPECIFIED IN THIS ARTICLE AND ARTICLES 2 TO 7 OF THIS TITLE APPLY TO ALL EMINENT DOMAIN PROCEEDINGS.

(e) IN ENACTING THIS PART 2, IT IS NOT THE INTENT OF THE GENERAL ASSEMBLY TO:

(I) REPEAL, LIMIT, OR OTHERWISE MODIFY THE AUTHORITY OF ANY GOVERNMENTAL ENTITY, CORPORATION, OR PERSON TO EXERCISE THE POWER OF EMINENT DOMAIN;

(II) GRANT NEW EMINENT DOMAIN AUTHORITY TO ANY GOVERNMENTAL ENTITY, INDIVIDUAL, OR CORPORATION; OR

(III) INFRINGE UPON THE HOME RULE POWER OF ANY HOME RULE MUNICIPALITY OR COUNTY.

38-1-202. Governmental entities, corporations, and persons authorized to use eminent domain. (1) THE FOLLOWING GOVERNMENTAL ENTITIES, TYPES OF GOVERNMENTAL ENTITIES, AND PUBLIC CORPORATIONS, IN ACCORDANCE WITH ALL PROCEDURAL AND OTHER REQUIREMENTS SPECIFIED IN THIS ARTICLE AND ARTICLES 2 TO 7 OF THIS TITLE AND TO THE EXTENT AND WITHIN ANY TIME FRAME SPECIFIED IN THE APPLICABLE AUTHORIZING STATUTE MAY EXERCISE THE POWER OF EMINENT DOMAIN:

(a) THE UNITED STATES AS AUTHORIZED IN SECTION 3-1-102, C.R.S.;

(b) THE STATE:

(I) AS AUTHORIZED IN PARAGRAPH (b) OF ARTICLE IX OF THE UPPER COLORADO RIVER BASIN COMPACT, CODIFIED AT SECTION 37-62-101, C.R.S.;

(II) AS AUTHORIZED IN PARAGRAPH 3. OF ARTICLE V OF THE SOUTH PLATTE RIVER COMPACT, CODIFIED AT SECTION 37-65-101, C.R.S.;

(III) AS AUTHORIZED IN ARTICLE VII OF THE REPUBLICAN RIVER COMPACT, CODIFIED AT SECTION 37-67-101, C.R.S.;

(IV) BY ACTION OF THE GENERAL ASSEMBLY OR BY ACTION OF ANY OF THE FOLLOWING OFFICERS AND AGENCIES OF THE STATE:

(A) THE DEPARTMENT OF HUMAN SERVICES AS AUTHORIZED IN SECTION 19-2-403.5, C.R.S.;

(B) THE DEPARTMENT OF NATURAL RESOURCES AS AUTHORIZED IN SECTION 24-33-107 (3), C.R.S.;

(C) THE DEPARTMENT OF PERSONNEL WITH THE APPROVAL OF THE GOVERNOR AS AUTHORIZED IN SECTION 24-82-102, C.R.S.;

(D) THE ATTORNEY GENERAL AT THE DIRECTION OF THE GOVERNOR AS

AUTHORIZED IN SECTION 24-82-302 (1), C.R.S.;

(E) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT AS AUTHORIZED IN SECTION 25-11-303 (1) (d), C.R.S.;

(F) THE GOVERNOR AS AUTHORIZED IN SECTION 27-1-103 (2), C.R.S.;

(G) THE DEPARTMENT OF TRANSPORTATION AS AUTHORIZED IN SECTIONS 33-11-104 (4), 43-1-210 (1), (2), AND (3), 43-1-217 (1), 43-1-406 (4), 43-1-414 (1), (2), (3), AND (4), 43-1-509, 43-1-1410 (1) (i), 43-2-135 (1) (k), 43-3-106, AND 43-3-107, C.R.S.;

(H) THE STATE BOARD OF LAND COMMISSIONERS AS AUTHORIZED IN SECTION 36-4-108, C.R.S.;

(I) THE TRANSPORTATION COMMISSION CREATED IN SECTION 43-1-106, C.R.S., AS AUTHORIZED IN SECTION 43-1-208 (3), C.R.S.;

(J) THE STATEWIDE TOLLING ENTERPRISE AS AUTHORIZED IN SECTION 43-4-806 (1) (g), C.R.S.; AND

(K) THE COLORADO AERONAUTICAL BOARD AS AUTHORIZED IN SECTION 43-10-106, C.R.S.

(c) STATE EDUCATIONAL BOARDS OF CONTROL, INCLUDING THE STATE BOARD FOR COMMUNITY COLLEGES AND OCCUPATIONAL EDUCATION AND JUNIOR COLLEGE BOARDS OF TRUSTEES, AND INSTITUTIONS OF HIGHER EDUCATION, AS AUTHORIZED IN SECTIONS 23-53-105, 23-55-104, 23-60-208, 23-71-122 (1) (p), AND 38-2-105, C.R.S.;

(d) COUNTIES, CITIES AND COUNTIES, AND BOARDS OF COUNTY COMMISSIONERS AS AUTHORIZED IN SECTIONS 24-72-104 (2), 25-1-659, 25-3-306, 29-6-101, 30-11-104 (2), 30-11-107 (1) (w), 30-11-205, 30-11-307 (1) (c), 30-20-108 (3), 30-20-402 (1) (a), 30-35-201 (37), (41), (42), AND (43), 31-25-216 (2), 41-4-102, 41-4-104, 41-4-108, 41-5-101 (1) (a), 43-1-217 (1), 43-2-112 (2), 43-2-204, 43-2-206, AND 43-3-107, C.R.S.;

(e) CITIES, CITIES AND COUNTIES, AND TOWNS AS AUTHORIZED IN SECTIONS 25-1-659, 29-4-104 (1) (d), 29-4-105, 29-4-106, 29-6-101, 29-7-104, 30-20-108 (3), 31-15-706 (2), 31-15-707 (1) (a) AND (1) (e), 31-15-708 (1) (b), 31-15-716 (1) (c), 31-25-201 (1), 31-25-216 (2), 31-25-402 (1) (c), 31-35-304, 31-35-402 (1) (a), 31-35-512 (1) (g), 38-5-105, 38-6-101, 38-6-122, 41-4-108, AND 41-4-202, C.R.S.;

(f) THE FOLLOWING TYPES OF SINGLE PURPOSE DISTRICTS, SPECIAL DISTRICTS, AUTHORITIES, BOARDS, COMMISSIONS, AND OTHER GOVERNMENTAL ENTITIES THAT SERVE LIMITED GOVERNMENTAL PURPOSES OR THAT MAY EXERCISE EMINENT DOMAIN FOR LIMITED PURPOSES ON BEHALF OF A COUNTY, CITY AND COUNTY, CITY, OR TOWN:

(I) A SCHOOL DISTRICT AS AUTHORIZED IN SECTION 22-32-111, C.R.S.;

(II) A POWER AUTHORITY ESTABLISHED PURSUANT TO SECTION 29-1-204 (1), C.R.S., AS AUTHORIZED IN SECTION 29-1-204 (3) (f), C.R.S.;

(III) A WATER OR DRAINAGE AUTHORITY ESTABLISHED PURSUANT TO SECTION 29-1-204.2 (1), C.R.S., AS AUTHORIZED IN SECTION 29-1-204.2 (3) (f), C.R.S.;

(IV) A MULTIJURISDICTIONAL HOUSING AUTHORITY ESTABLISHED PURSUANT TO SECTION 29-1-204.5 (1), C.R.S., AS AUTHORIZED IN SECTION 29-1-204.5 (3) (f), C.R.S.;

(V) A HOUSING AUTHORITY ORGANIZED PURSUANT TO PART 2 OF ARTICLE 4 OF TITLE 29, C.R.S., AS AUTHORIZED IN SECTIONS 29-4-209 (1) (k), 29-4-211, AND 29-4-212, C.R.S.;

(VI) AN AUTHORITY CREATED BY A MUNICIPALITY FOR THE PURPOSE OF CARRYING OUT A DEVELOPMENT PLAN PURSUANT TO SECTION 29-4-306, C.R.S., AS AUTHORIZED IN SECTIONS 29-4-306 (2) AND 29-4-307 (1) (a), C.R.S.;

(VII) A METROPOLITAN RECREATION DISTRICT OR PARK AND RECREATION DISTRICT ORGANIZED UNDER ARTICLE 1 OF TITLE 32, C.R.S., OR A MUNICIPAL BOARD GIVEN CHARGE OF A RECREATION SYSTEM AS AUTHORIZED IN SECTIONS 29-7-104 AND 32-1-1005 (1) (c), C.R.S.;

(VIII) AN IMPROVEMENT DISTRICT CREATED BY A COUNTY PURSUANT TO PART 5 OF ARTICLE 20 OF TITLE 30, C.R.S., AS AUTHORIZED IN SECTION 30-20-512 (1) (i), C.R.S.;

(IX) AN URBAN RENEWAL AUTHORITY CREATED PURSUANT TO SECTION 31-25-104, C.R.S., AS AUTHORIZED IN SECTIONS 31-25-105 (1) (e) AND 31-25-105.5, C.R.S., AND IN ACCORDANCE WITH THE VESTING REQUIREMENTS SPECIFIED IN ARTICLE 7 OF THIS TITLE;

(X) AN IMPROVEMENT DISTRICT CREATED BY A MUNICIPALITY PURSUANT TO PART 6 OF ARTICLE 25 OF TITLE 31, C.R.S., AS AUTHORIZED IN SECTION 31-25-611 (1) (i), C.R.S.;

(XI) A BOARD OF WATER AND SEWER COMMISSIONERS CREATED BY THE GOVERNING BODY OF A MUNICIPALITY PURSUANT TO SECTION 31-35-501, C.R.S., AS AUTHORIZED IN SECTIONS 31-35-511 AND 31-35-512 (1) (g), C.R.S.;

(XII) A FIRE PROTECTION DISTRICT AS AUTHORIZED IN SECTION 32-1-1002 (1) (b), C.R.S.;

(XIII) A METROPOLITAN DISTRICT AS AUTHORIZED IN SECTION 32-1-1004 (4), C.R.S.;

(XIV) A SANITATION, WATER AND SANITATION, OR WATER DISTRICT AS AUTHORIZED IN SECTION 32-1-1006 (1) (f), C.R.S.;

(XV) A TUNNEL DISTRICT AS AUTHORIZED IN SECTION 32-1-1008 (1) (c), C.R.S.;

(XVI) A WATER AND SANITATION DISTRICT ORGANIZED UNDER PART 4 OF ARTICLE 4 OF TITLE 32, C.R.S., AS AUTHORIZED IN SECTION 32-4-406 (1) (j), C.R.S.;

(XVII) A METROPOLITAN SEWAGE DISTRICT ORGANIZED UNDER THE PROVISIONS OF PART 5 OF ARTICLE 4 OF TITLE 32, C.R.S., AS AUTHORIZED IN SECTION 32-4-502 (5) AND 32-4-510 (1) (j), C.R.S.;

(XVIII) A REGIONAL SERVICE AUTHORITY FORMED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 17 OF ARTICLE XIV OF THE STATE CONSTITUTION AND ARTICLE 7 OF TITLE 32, C.R.S., AS AUTHORIZED IN SECTION 32-7-113 (1) (k), C.R.S.;

(XIX) THE REGIONAL TRANSPORTATION DISTRICT CREATED IN SECTION 32-9-105, C.R.S., AS AUTHORIZED IN SECTIONS 32-9-103 (2), 32-9-119 (1) (k), AND 32-9-161, C.R.S.;

(XX) THE URBAN DRAINAGE AND FLOOD CONTROL DISTRICT CREATED IN SECTION 32-11-201, C.R.S., AS AUTHORIZED IN SECTIONS 32-11-104 (10), 32-11-216 (1) (g), 32-11-220 (1) (b), 32-11-615 (2), AND 32-11-663, C.R.S.;

(XXI) A MINE DRAINAGE DISTRICT ORGANIZED UNDER THE PROVISIONS OF ARTICLE 51 OF TITLE 34, C.R.S., AS AUTHORIZED IN SECTION 34-51-123, C.R.S.;

(XXII) A CONSERVATION DISTRICT CREATED PURSUANT TO ARTICLE 70 OF TITLE 35, C.R.S., AS AUTHORIZED IN SECTION 35-70-108 (1) (e), C.R.S.;

(XXIII) A CONSERVANCY DISTRICT CREATED UNDER ARTICLES 1 TO 8 OF TITLE 37, C.R.S., AS AUTHORIZED IN SECTIONS 37-2-105 (7), 37-3-103 (1) (h), 37-3-116, 37-3-117, AND 37-4-109 (3), C.R.S.;

(XXIV) A DRAINAGE DISTRICT ORGANIZED PURSUANT TO ARTICLE 20 OF TITLE 37, C.R.S., AS AUTHORIZED IN SECTIONS 37-21-114 (1), 37-23-103, AND 37-24-104, C.R.S.;

(XXV) THE GRAND JUNCTION DRAINAGE DISTRICT CREATED IN SECTION 37-31-102 (1), C.R.S., AS AUTHORIZED IN SECTIONS 37-31-119 AND 37-31-152, C.R.S.;

(XXVI) AN IRRIGATION DISTRICT ORGANIZED UNDER THE PROVISIONS OF ARTICLE 41 OF TITLE 37, C.R.S., AS AUTHORIZED IN SECTIONS 37-41-113 (3) AND (5), 37-41-114, 37-41-128, AND 37-43-207, C.R.S.;

(XXVII) AN IRRIGATION DISTRICT ORGANIZED UNDER THE PROVISIONS OF ARTICLE 42 OF TITLE 37, C.R.S., AS AUTHORIZED IN SECTIONS 37-42-113 (1) AND (2) AND 37-43-207, C.R.S.;

(XXVIII) AN INTERNAL IMPROVEMENT DISTRICT ESTABLISHED UNDER THE PROVISIONS OF ARTICLE 44 OF TITLE 37, C.R.S., AS AUTHORIZED IN SECTIONS 37-44-103 (1) (b), 37-44-108 (1) AND (2), 37-44-109, AND 37-44-141, C.R.S.;

(XXIX) A WATER CONSERVANCY DISTRICT ORGANIZED UNDER THE PROVISIONS OF ARTICLE 45 OF TITLE 37, C.R.S., AS AUTHORIZED IN SECTIONS 37-45-118 (1) (c)

AND 37-45-119, C.R.S.;

(XXX) A WATER ACTIVITY ENTERPRISE, AS DEFINED IN SECTION 37-45.1-102 (4), C.R.S., EXERCISING THE LEGAL AUTHORITY TO EXERCISE THE POWER OF EMINENT DOMAIN OF THE DISTRICT THAT OWNS IT IN RELATION TO A WATER ACTIVITY, AS DEFINED IN SECTION 37-45.1-102 (3), C.R.S., AS AUTHORIZED IN SECTION 37-45.1-103 (4), C.R.S.;

(XXXI) THE COLORADO RIVER WATER CONSERVATION DISTRICT CREATED IN SECTION 37-46-103, C.R.S., AS AUTHORIZED IN SECTION 37-46-107 (1) (i), C.R.S.;

(XXXII) THE SOUTHWESTERN WATER CONSERVATION DISTRICT CREATED IN SECTION 37-47-103, C.R.S., AS AUTHORIZED IN SECTION 37-47-107 (1) (i), C.R.S.;

(XXXIII) THE RIO GRANDE WATER CONSERVATION DISTRICT CREATED IN SECTION 37-48-102, C.R.S., AS AUTHORIZED IN SECTION 37-48-105 (1) (i), C.R.S.;

(XXXIV) THE REPUBLICAN RIVER WATER CONSERVATION DISTRICT CREATED IN SECTION 37-50-103 (1), C.R.S., AS AUTHORIZED IN SECTION 37-50-107 (1) (j), C.R.S.;

(XXXV) THE COLORADO WATER CONSERVATION BOARD CREATED IN SECTION 37-60-102, C.R.S., AS AUTHORIZED IN SECTION 37-60-106 (1) (j), C.R.S.;

(XXXVI) THE COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY CREATED IN SECTION 37-95-104 (1), C.R.S., AS AUTHORIZED IN SECTION 37-95-106 (1) (n) AND (1) (v), C.R.S.;

(XXXVII) A PUBLIC AIRPORT AUTHORITY CREATED UNDER THE PROVISIONS OF ARTICLE 3 OF TITLE 41, C.R.S., AS AUTHORIZED IN SECTION 41-3-106 (1) (j), C.R.S.;

(XXXVIII) A PUBLIC HIGHWAY AUTHORITY CREATED PURSUANT TO SECTION 43-4-504, C.R.S., AS AUTHORIZED IN SECTIONS 43-4-505 (1) (a) (IV) AND 43-4-506 (1) (h), C.R.S.;

(XXXIX) A REGIONAL TRANSPORTATION AUTHORITY CREATED PURSUANT TO SECTION 43-4-603, C.R.S., AS AUTHORIZED IN SECTION 43-4-604 (1) (a) (IV), C.R.S.; AND

(XL) THE COLORADO AERONAUTICAL BOARD CREATED IN SECTION 43-10-104, C.R.S., AS AUTHORIZED IN SECTION 43-10-106 (1), C.R.S.

(2) THE FOLLOWING TYPES OF CORPORATIONS AND PERSONS, IN ACCORDANCE WITH ALL PROCEDURAL AND OTHER REQUIREMENTS SPECIFIED IN THIS ARTICLE AND ARTICLES 2 TO 7 OF THIS TITLE AND TO THE EXTENT AND WITHIN ANY TIME FRAME SPECIFIED IN THE APPLICABLE AUTHORIZING PROVISION OF THE STATE CONSTITUTION OR STATUTE MAY EXERCISE THE POWER OF EMINENT DOMAIN:

(a) A PERSON OR CORPORATION THAT NEEDS TO EXERCISE THE POWER OF EMINENT DOMAIN IN ORDER TO ACQUIRE ANY RIGHT-OF-WAY ACROSS PUBLIC, PRIVATE, OR CORPORATE LANDS FOR THE CONSTRUCTION OF DITCHES, CANALS, AND FLUMES FOR

THE PURPOSES OF CONVEYING WATER FOR DOMESTIC PURPOSES, FOR THE IRRIGATION OF AGRICULTURAL LANDS, FOR MINING AND MANUFACTURING PURPOSES, OR FOR DRAINAGE, AS AUTHORIZED IN SECTION 7 OF ARTICLE XVI OF THE STATE CONSTITUTION;

(b) A PIPELINE COMPANY AS AUTHORIZED IN ARTICLE 5 OF THIS TITLE AND SECTIONS 7-43-102, 34-48-105, 34-48-111, 38-1-101.5, 38-1-101.7, 38-2-101, 38-4-102, AND 38-4-107, C.R.S.;

(c) A CEMETERY COMPANY ORGANIZED PURSUANT TO SECTION 7-47-101, C.R.S., AS AUTHORIZED IN SECTION 7-47-102, C.R.S.;

(d) A CEMETERY AUTHORITY, AS DEFINED IN SECTION 12-12-101 (2), C.R.S., AS AUTHORIZED IN SECTION 12-12-105, C.R.S.;

(e) A PUBLIC UTILITY AS AUTHORIZED IN SECTION 32-12-125, C.R.S.;

(f) AN OWNER OR AGENT OF AN OWNER OF COAL LANDS LYING ON TWO OR MORE SIDES OF THE PROPERTY OF ANOTHER AS AUTHORIZED IN SECTION 34-31-101, C.R.S.;

(g) A PERSON WHO REQUIRES A RIGHT-OF-WAY OR PROPERTY IN ORDER TO BRING WATER OR AIR INTO A MINE OR CONVEY TAILINGS AND WASTES FROM A MINING OPERATION, CONSTRUCT OR MAINTAIN A FLUME, DITCH, PIPELINE, TRAM, TRAMWAY, OR PACK TRAIL OVER OR THROUGH MINING CLAIMS, OR FOLLOW A MINERAL-BEARING VEIN OR LODGE INTO THE PROPERTY OF ANOTHER PERSON PURSUANT TO AN ESTABLISHED RIGHT TO DO SO AS AUTHORIZED IN SECTIONS 34-48-101, 34-48-105, 34-48-107, 34-48-110, AND 34-48-111, C.R.S.;

(h) A NATURAL GAS PUBLIC UTILITY, AS DEFINED IN SECTION 34-64-102 (3), C.R.S., AS AUTHORIZED IN SECTION 34-64-103, C.R.S.;

(i) A PERSON WHO OWNS A WATER RIGHT OR CONDITIONAL WATER RIGHT AS AUTHORIZED IN ARTICLE 86 OF TITLE 37, C.R.S.;

(j) A PERSON WHO NEEDS TO CREATE OR OPERATE A WATER STORAGE FACILITY IN ORDER TO REALIZE THE PERSON'S RIGHT TO APPROPRIATE WATER AS AUTHORIZED IN SECTION 37-87-101, C.R.S.;

(k) A PERSON WHO, UNDER GENERAL LAWS OR SPECIAL CHARTER, REQUIRES AND IS ENTITLED TO PRIVATE PROPERTY OF ANOTHER FOR PRIVATE USE, PRIVATE WAYS OF NECESSITY, OR FOR RESERVOIRS, DRAINS, FLUMES, OR DITCHES ON OR ACROSS THE LANDS OF OTHERS FOR AGRICULTURAL, MINING, MILLING, DOMESTIC, OR SANITARY PURPOSES AS AUTHORIZED IN SECTION 38-1-102;

(l) A CORPORATION FORMED FOR THE PURPOSE OF CONSTRUCTING A ROAD, DITCH, RESERVOIR, PIPELINE, BRIDGE, FERRY, TUNNEL, TELEGRAPH LINE, RAILROAD LINE, ELECTRIC LINE, ELECTRIC PLANT, TELEPHONE LINE, OR TELEPHONE PLANT AS AUTHORIZED IN SECTION 38-2-101;

(m) LANDOWNERS WHO WISH TO CONSTRUCT A DRAIN TO CARRY OFF SURPLUS WATER AS AUTHORIZED IN SECTION 38-2-103;

(n) A MINERAL LANDOWNER WHO NEEDS TO CONSTRUCT A CONNECTING RAILROAD SPUR OVER ANOTHER LANDOWNER'S PROPERTY AS AUTHORIZED IN SECTION 38-2-104;

(o) A TUNNEL COMPANY AS AUTHORIZED IN SECTIONS 38-2-101, 38-4-101, 38-4-107, AND 38-4-110;

(p) AN ELECTRIC POWER COMPANY AS AUTHORIZED IN SECTIONS 38-2-101, 38-4-101, AND 38-4-107;

(q) A TRAMWAY COMPANY AS AUTHORIZED IN SECTIONS 38-4-104 AND 38-4-107;

(r) A TELEGRAPH, TELEPHONE, ELECTRIC LIGHT POWER, GAS, OR PIPELINE COMPANY AS AUTHORIZED IN SECTIONS 38-2-101 AND 38-5-105 AND LIMITED BY SECTION 38-5-108; AND

(s) A PERSON, COMPANY, CORPORATION, OR ASSOCIATION THAT HAS BEEN GRANTED AN ELECTRIC RAILROAD FRANCHISE AS AUTHORIZED IN SECTION 40-24-102, C.R.S.

SECTION 2. 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 (August 9, 2006, if adjournment sine die is on May 10, 2006); 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: April 6, 2006