

CHAPTER 104

HEALTH AND ENVIRONMENT

HOUSE BILL 07-1197

BY REPRESENTATIVE(S) Fischer, Cerbo, Curry, Kefalas, Levy, and Looper;
also SENATOR(S) Bacon.

AN ACT

CONCERNING THE AUTHORITY OF A COUNTY TO ABATE CONDITIONS THAT CONTRIBUTE TO A VIOLATION OF A GENERAL STORMWATER QUALITY PERMIT ISSUED TO THE COUNTY BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

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

SECTION 1. 30-15-401, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

30-15-401. General regulations. (1) (a) (I) IF A COUNTY IS THE PERMITTEE OF A MUNICIPAL SEPARATE STORM SEWER SYSTEM PERMIT ISSUED PURSUANT TO PART 5 OF ARTICLE 8 OF TITLE 25, C.R.S., THE BOARD OF COUNTY COMMISSIONERS MAY ADOPT A STORMWATER ORDINANCE TO DEVELOP, IMPLEMENT, AND ENFORCE THE STORMWATER MANAGEMENT PROGRAM REQUIRED BY THE PERMIT.

(II) THE STORMWATER ORDINANCE MAY SPECIFY THAT THE COUNTY MAY:

(A) PROVIDE FOR AND COMPEL THE ABATEMENT OF ANY CONDITION THAT CAUSES OR CONTRIBUTES TO A VIOLATION OF THE PERMIT OR REQUIREMENT FROM ANY PROPERTY LOCATED WITHIN THE UNINCORPORATED PORTION OF THE COUNTY AT SUCH TIME, UPON SUCH NOTICE, AND IN SUCH MANNER CONSISTENT WITH THE TERMS OF THE PERMIT AS THE BOARD OF COUNTY COMMISSIONERS MAY PRESCRIBE BY ORDINANCE;

(B) PERFORM THE ABATEMENT UPON NOTICE TO AND FAILURE OF THE PROPERTY OWNER TO ABATE SUCH CONDITION; AND

(C) ASSESS THE REASONABLE COST OF THE ABATEMENT, INCLUDING FIVE PERCENT FOR INSPECTION AND OTHER INCIDENTAL COSTS IN CONNECTION THEREWITH, UPON

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

THE PROPERTY FROM WHICH SUCH CONDITION HAS BEEN ABATED.

(III) STORMWATER ORDINANCES ADOPTED PURSUANT TO THIS SUBSECTION (11) SHALL INCLUDE PROVISIONS FOR APPLYING FOR AND EXERCISING AN ADMINISTRATIVE ENTRY AND SEIZURE WARRANT ISSUED BY A COUNTY OR DISTRICT COURT HAVING JURISDICTION OVER THE PROPERTY FROM WHICH THE CONDITION IS TO BE ABATED. AN ASSESSMENT PURSUANT TO THIS SUBSECTION (11) SHALL, ONCE RECORDED, BE A LIEN AGAINST SUCH PROPERTY UNTIL PAID AND SHALL HAVE PRIORITY BASED UPON ITS DATE OF RECORDING. IF THE ASSESSMENT IS NOT PAID WITHIN A REASONABLE TIME SPECIFIED BY ORDINANCE, THE COUNTY CLERK AND RECORDER MAY CERTIFY THAT FACT TO THE COUNTY TREASURER, WHO SHALL COLLECT THE ASSESSMENT, TOGETHER WITH A TEN PERCENT PENALTY FOR THE COST OF COLLECTION, IN THE SAME MANNER AS OTHER TAXES ARE COLLECTED. THE LAWS OF THIS STATE FOR ASSESSMENT AND COLLECTION OF GENERAL TAXES, INCLUDING THE LAWS FOR THE SALE AND REDEMPTION OF PROPERTY FOR TAXES, SHALL APPLY TO THE COLLECTION OF ASSESSMENTS PURSUANT TO THIS SUBSECTION (11).

(b) (I) A COUNTY COURT OR DISTRICT COURT HAVING JURISDICTION OVER THE PROPERTY FROM WHICH SUCH CONDITION IS TO BE ABATED PURSUANT TO THE STORMWATER ORDINANCE SHALL ISSUE AN ADMINISTRATIVE ENTRY AND SEIZURE WARRANT FOR THE ABATEMENT OF SUCH CONDITION UPON PRESENTATION BY A COUNTY OF:

(A) ORDINANCE PROVISIONS THAT MEET THE REQUIREMENTS OF PARAGRAPH (a) OF THIS SUBSECTION (11);

(B) A SWORN OR AFFIRMED AFFIDAVIT STATING THE FACTUAL BASIS FOR SUCH WARRANT;

(C) EVIDENCE THAT THE PROPERTY OWNER HAS RECEIVED NOTICE OF THE CONDITION AND HAS FAILED TO ABATE THE CONDITION WITHIN A REASONABLE PRESCRIBED PERIOD;

(D) A GENERAL DESCRIPTION OF THE LOCATION OF THE PROPERTY THAT IS THE SUBJECT OF THE WARRANT; AND

(E) A GENERAL LIST OF CORRECTIVE ACTION NEEDED.

(II) WITHIN TEN DAYS AFTER THE DATE OF ISSUANCE OF AN ADMINISTRATIVE ENTRY AND SEIZURE WARRANT PURSUANT TO THE PROVISIONS OF THIS PARAGRAPH (b), THE EXECUTING AUTHORITY SHALL:

(A) EXECUTE SUCH WARRANT IN ACCORDANCE WITH DIRECTIONS BY THE ISSUING COURT;

(B) PROVIDE OR MAIL A COPY OF SUCH WARRANT TO THE PROPERTY OWNER; AND

(C) SUBMIT PROOF OF THE EXECUTION OF SUCH WARRANT, INCLUDING A WRITTEN INVENTORY OF ANY PROPERTY IMPOUNDED BY THE EXECUTING AUTHORITY, TO THE COURT.

SECTION 2. 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: April 9, 2007