

CHAPTER 398

PROPERTY

HOUSE BILL 10-1358

BY REPRESENTATIVE(S) Fischer, Apuan, Court, Frangas, Gagliardi, Hullinghorst, Kagan, Kefalas, Kerr A., Labuda, Levy, Merrifield, Middleton, Pace, Peniston, Primavera, Ryden, Solano, Todd, Tyler, Vigil, Weissmann, Miklosi, Soper, Pommer; also SENATOR(S) Johnston, Bacon, Hodge, Steadman, Tapia, Williams, Boyd, Carroll M., Heath, Schwartz, Shaffer B., Tochtrop, Whitehead.

AN ACT

CONCERNING A REQUIREMENT FOR NEW HOME BUILDERS TO OFFER HOME BUYERS WATER EFFICIENCY OPTIONS.

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

SECTION 1. Article 35.7 of title 38, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

38-35.7-107. Water-smart homes option. (1) (a) EVERY PERSON THAT BUILDS A NEW SINGLE-FAMILY DETACHED RESIDENCE FOR WHICH A BUYER IS UNDER CONTRACT SHALL OFFER THE BUYER THE OPPORTUNITY TO SELECT ONE OR MORE OF THE FOLLOWING WATER-SMART HOME OPTIONS FOR THE RESIDENCE:

(I) INSTALLATION OF WATER-EFFICIENT TOILETS, LAVATORY FAUCETS, AND SHOWERHEADS THAT MEET OR EXCEED THE FOLLOWING WATER-EFFICIENT STANDARDS: TOILETS SHALL USE NO MORE THAN ONE AND TWENTY-EIGHT ONE-HUNDREDTHS OF A GALLON PER FLUSH, LAVATORY FAUCETS NO MORE THAN ONE AND ONE-HALF GALLONS PER MINUTE, AND SHOWERHEADS NO MORE THAN TWO GALLONS PER MINUTE;

(II) IF DISHWASHERS OR CLOTHES WASHERS ARE FINANCED, INSTALLED, OR SOLD AS UPGRADES THROUGH THE HOME BUILDER, THE BUILDER SHALL OFFER A MODEL THAT IS QUALIFIED PURSUANT TO THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY'S ENERGY STAR PROGRAM AT THE TIME OF OFFERING. CLOTHES WASHERS SHALL HAVE A WATER FACTOR OF LESS THAN OR EQUAL TO SIX GALLONS OF WATER PER CYCLE PER CUBIC FOOT OF CAPACITY.

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

(III) IF LANDSCAPING IS FINANCED, INSTALLED, OR SOLD AS UPGRADES THROUGH THE HOME BUILDER AND WILL BE MAINTAINED BY THE HOME OWNER, THE HOME BUILDER SHALL OFFER A LANDSCAPE DESIGN THAT FOLLOWS THE LANDSCAPE PRACTICES SPECIFIED IN THIS SUBPARAGRAPH (III) TO ENSURE BOTH THE PROFESSIONAL DESIGN AND INSTALLATION OF SUCH LANDSCAPING AND THAT WATER CONSERVATION WILL BE ACCOMPLISHED. THESE BEST MANAGEMENT PRACTICES ARE CONTAINED IN THE DOCUMENT TITLED: "GREEN INDUSTRY BEST MANAGEMENT PRACTICES (BMP) FOR THE CONSERVATION AND PROTECTION OF WATER RESOURCES IN COLORADO, 3RD EDITION", AND APPENDIX, RELEASED IN MAY 2008, OR THIS DOCUMENT'S SUCCESSORS DUE TO FUTURE INCLUSION OF IMPROVED LANDSCAPING PRACTICES, WATER CONSERVATION ADVANCEMENTS, AND NEW IRRIGATION TECHNOLOGY. THE BEST MANAGEMENT PRACTICES SPECIFIED IN THIS SUBPARAGRAPH (III), THROUGH UTILIZATION OF THE PROPER LANDSCAPE DESIGN, INSTALLATION, AND IRRIGATION TECHNOLOGY, ACCOMPLISH SUBSTANTIAL WATER SAVINGS COMPARED TO LANDSCAPE DESIGNS, INSTALLATION, AND IRRIGATION SYSTEM UTILIZATION WHERE THESE PRACTICES ARE NOT ADHERED TO. THE FOLLOWING BEST MANAGEMENT PRACTICES AND WATER BUDGET CALCULATOR FORM THE BASIS FOR THE DESIGN AND INSTALLATION FOR THE FRONT YARD LANDSCAPING OPTION IF SELECTED BY THE HOMEOWNER AS AN UPGRADE:

(A) XERISCAPE: TO INCLUDE THE SEVEN PRINCIPLES OF XERISCAPE THAT PROVIDE A COMPREHENSIVE APPROACH FOR CONSERVING WATER;

(B) WATER BUDGETING: TO INCLUDE EITHER A WATER ALLOTMENT BY THE WATER UTILITY FOR THE PROPERTY, IF OFFERED BY THE WATER UTILITY, OR A LANDSCAPE WATER BUDGET BASED ON PLANT WATER REQUIREMENTS;

(C) LANDSCAPE DESIGN: TO INCLUDE A PLAN AND DESIGN FOR THE LANDSCAPE TO COMPREHENSIVELY CONSERVE WATER AND PROTECT WATER QUALITY;

(D) LANDSCAPE INSTALLATION AND EROSION CONTROL: TO MINIMIZE SOIL EROSION AND EMPLOY PROPER SOIL CARE AND PLANTING TECHNIQUES DURING CONSTRUCTION;

(E) SOIL AMENDMENT AND GROUND PREPARATION: TO INCLUDE AN EVALUATION OF THE SOIL AND IMPROVE, IF NECESSARY, TO ADDRESS WATER RETENTION, PERMEABILITY, WATER INFILTRATION, AERATION, AND STRUCTURE;

(F) TREE PLACEMENT AND TREE PLANTING: TO INCLUDE PROPER SOIL AND SPACE FOR ROOT GROWTH AND TO INCLUDE PROPER PLANTING OF TREES, SHRUBS, AND OTHER WOODY PLANTS TO PROMOTE LONG-TERM HEALTH OF THESE PLANTS;

(G) IRRIGATION DESIGN AND INSTALLATION: TO INCLUDE DESIGN OF THE IRRIGATION SYSTEM FOR THE EFFICIENT AND UNIFORM DISTRIBUTION OF WATER TO PLANT MATERIAL AND THE DEVELOPMENT OF AN IRRIGATION SCHEDULE;

(H) IRRIGATION TECHNOLOGY AND SCHEDULING: TO INCLUDE WATER CONSERVING DEVICES THAT STOP WATER APPLICATION DURING RAIN, HIGH WIND, AND OTHER WEATHER EVENTS AND INCORPORATE EVAPOTRANSPIRATION CONDITIONS. IRRIGATION SCHEDULING SHOULD ADDRESS FREQUENCY AND DURATION OF WATER APPLICATION IN THE MOST EFFICIENT MANNER; AND

(I) **MULCHING:** TO INCLUDE THE USE OF ORGANIC MULCHES TO REDUCE WATER LOSS THROUGH EVAPORATION, REDUCE SOIL LOSS, AND SUPPRESS WEEDS.

(IV) INSTALLATION OF A PRESSURE-REDUCING VALVE THAT LIMITS STATIC SERVICE PRESSURE IN THE RESIDENCE TO A MAXIMUM OF SIXTY POUNDS PER SQUARE INCH. PIPING FOR HOME FIRE SPRINKLER SYSTEMS SHALL COMPLY WITH STATE AND LOCAL CODES AND REGULATIONS BUT ARE OTHERWISE EXCLUDED FROM THIS SUBPARAGRAPH (IV).

(b) THE OFFER REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL BE MADE IN ACCORDANCE WITH THE BUILDER'S CONSTRUCTION SCHEDULE FOR THE RESIDENCE. IN THE CASE OF PREFABRICATED OR MANUFACTURED HOMES, "CONSTRUCTION SCHEDULE" INCLUDES THE SCHEDULE FOR COMPLETION OF PREFABRICATED WALLS OR OTHER SUBASSEMBLIES.

(2) NOTHING IN THIS SECTION PRECLUDES A PERSON THAT BUILDS A NEW SINGLE-FAMILY DETACHED RESIDENCE FROM:

(a) SUBJECTING WATER-EFFICIENT FIXTURE AND APPLIANCE UPGRADES TO THE SAME TERMS AND CONDITIONS AS OTHER UPGRADES, INCLUDING CHARGES RELATED TO UPGRADES, DEPOSITS REQUIRED FOR UPGRADES, DEADLINES, AND CONSTRUCTION TIMELINES;

(b) SELECTING THE CONTRACTORS THAT WILL COMPLETE THE INSTALLATION OF THE SELECTED OPTIONS; OR

(c) STIPULATING IN THE PURCHASE AGREEMENT OR SALES CONTRACT THAT WATER-EFFICIENT FIXTURES AND APPLIANCES ARE BASED ON TECHNOLOGY AVAILABLE AT THE TIME OF INSTALLATION, SUCH UPGRADES MAY NOT SUPPORT ALL WATER-EFFICIENT FIXTURES OR APPLIANCES INSTALLED AT A FUTURE DATE, AND THE PERSON THAT BUILDS A NEW SINGLE-FAMILY DETACHED RESIDENCE IS NOT LIABLE FOR ANY ADDITIONAL UPGRADES, RETROFITS, OR OTHER ALTERATIONS TO THE RESIDENCE THAT MAY BE NECESSARY TO ACCOMMODATE WATER-EFFICIENT FIXTURES OR APPLIANCES INSTALLED AT A FUTURE DATE.

(3) THIS SECTION DOES NOT APPLY TO UNOCCUPIED HOMES SERVING AS SALES INVENTORY OR MODEL HOMES.

(4) THE UPGRADES DESCRIBED IN PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION SHALL NOT CONTRAVENE STATE OR LOCAL CODES, COVENANTS, AND REQUIREMENTS. ALL HOMES, LANDSCAPES, AND IRRIGATION SYSTEMS SHALL MEET ALL APPLICABLE NATIONAL, STATE, AND LOCAL REGULATIONS.

SECTION 2. Act subject to petition - specified effective date - applicability.

(1) This act shall take effect January 1, 2011; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2010 and shall take effect on January 1, 2011, or on the date of the official declaration of the vote thereon by the governor, whichever is later.

(2) The provisions of this act shall apply to contracts for new single-family detached residences occurring on or after the applicable effective date of this act.

Approved: June 9, 2010