

CHAPTER 74

PROPERTY

SENATE BILL 14-009

BY SENATOR(S) Hodge, Aguilar, Crowder, Guzman, Heath, Jahn, Kefalas, Kerr, Schwartz, Tochtrop, Todd, Ulibarri, Zenzinger, Carroll;
also REPRESENTATIVE(S) Moreno, Becker, Exum, Fields, Foote, Hamner, Hullinghorst, Kagan, Labuda, Lebsock, Lee, Melton, Mitsch Bush, Schafer, Ferrandino.

AN ACT

CONCERNING A DISCLOSURE OF POSSIBLE SEPARATE OWNERSHIP OF THE MINERAL ESTATE IN THE SALE OF REAL PROPERTY.

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

SECTION 1. In Colorado Revised Statutes, **add** 38-35.7-108 as follows:

38-35.7-108. Disclosure of oil and gas activity - rules. (1) (a) BY JANUARY 1, 2016, THE REAL ESTATE COMMISSION CREATED IN SECTION 12-61-105, C.R.S., SHALL PROMULGATE A RULE REQUIRING EACH CONTRACT OF SALE OR SELLER'S PROPERTY DISCLOSURE FOR RESIDENTIAL REAL PROPERTY THAT IS SUBJECT TO THE COMMISSION'S JURISDICTION TO DISCLOSE THE FOLLOWING OR SUBSTANTIALLY SIMILAR INFORMATION:

THE SURFACE ESTATE OF THE PROPERTY MAY BE OWNED SEPARATELY FROM THE UNDERLYING MINERAL ESTATE, AND TRANSFER OF THE SURFACE ESTATE MAY NOT INCLUDE TRANSFER OF THE MINERAL ESTATE. THIRD PARTIES MAY OWN OR LEASE INTERESTS IN OIL, GAS, OR OTHER MINERALS UNDER THE SURFACE, AND THEY MAY ENTER AND USE THE SURFACE ESTATE TO ACCESS THE MINERAL ESTATE.

THE USE OF THE SURFACE ESTATE TO ACCESS THE MINERALS MAY BE GOVERNED BY A SURFACE USE AGREEMENT, A MEMORANDUM OR OTHER NOTICE OF WHICH MAY BE RECORDED WITH THE COUNTY CLERK AND RECORDER.

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 OIL AND GAS ACTIVITY THAT MAY OCCUR ON OR ADJACENT TO THIS PROPERTY MAY INCLUDE, BUT IS NOT LIMITED TO, SURVEYING, DRILLING, WELL COMPLETION OPERATIONS, STORAGE, OIL AND GAS, OR PRODUCTION FACILITIES, PRODUCING WELLS, REWORKING OF CURRENT WELLS, AND GAS GATHERING AND PROCESSING FACILITIES.

THE BUYER IS ENCOURAGED TO SEEK ADDITIONAL INFORMATION REGARDING OIL AND GAS ACTIVITY ON OR ADJACENT TO THIS PROPERTY, INCLUDING DRILLING PERMIT APPLICATIONS. THIS INFORMATION MAY BE AVAILABLE FROM THE COLORADO OIL AND GAS CONSERVATION COMMISSION.

(b) ON AND AFTER JANUARY 1, 2016, EACH CONTRACT OF SALE OR SELLER'S PROPERTY DISCLOSURE FOR RESIDENTIAL REAL PROPERTY THAT IS NOT SUBJECT TO THE REAL ESTATE COMMISSION'S JURISDICTION MUST CONTAIN A DISCLOSURE STATEMENT IN BOLD-FACED TYPE THAT IS CLEARLY LEGIBLE IN SUBSTANTIALLY THE SAME FORM AS IS SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (1).

(2) THE DISCLOSURE REQUIRED BY SUBSECTION (1) OF THIS SECTION DOES NOT CREATE A DUTY TO INVESTIGATE OR DISCLOSE THAT DOES NOT OTHERWISE EXIST FOR THE SELLER, A PERSON LICENSED UNDER ARTICLE 61 OF TITLE 12, C.R.S., OR A TITLE INSURANCE AGENT OR COMPANY LICENSED UNDER ARTICLE 2 OF TITLE 10, C.R.S.

SECTION 2. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 6, 2014, if adjournment sine die is on May 7, 2014); 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 such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2014 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to contracts made on or after the later of the applicable effective date of this act or January 1, 2016.

Approved: March 27, 2014