

Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 08-0247.01 Jason Gelender

HOUSE BILL 08-1007

HOUSE SPONSORSHIP

Looper,

SENATE SPONSORSHIP

(None),

House Committees

Transportation & Energy

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE MODIFICATION OF STATUTORY PROVISIONS
102 ENACTED BY THE GENERAL ASSEMBLY DURING THE 2006
103 LEGISLATIVE SESSION THAT IMPOSE CERTAIN REQUIREMENTS ON
104 PRIVATE TOLL COMPANIES FOR THE PURPOSE OF ALLEVIATING
105 CONSEQUENCES OF THOSE PROVISIONS THAT MAY AFFECT REAL
106 PROPERTY.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Replaces the existing statutory requirements that a private toll road

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

or toll highway company (company) send notice of its intent to construct a toll road, toll highway, or toll road or toll highway project (notice) to the county clerk and recorder of each county that include territory within the 3-mile corridor in which the company intends to construct the road, highway, or project and that the county clerk and recorder record the notice with requirements that a company instead send notice to each municipal, county, or regional planning commission (commission) that is responsible for planning in any part of the 3-mile corridor and that the commission make the notice available for public viewing. Prohibits a company from filing with any county clerk and recorder either notice or the disclaimer of interest and map currently required to be filed.

Declares that a disclaimer of interest, map, or notice properly authorized and legally filed or recorded by a company before the effective date of the act is void and of no effect, specifies that the voiding of a disclaimer of interest, map, or notice conclusively establishes that the disclaimer of interest, map, or notice does not affect the title to any property or have any other legal effect, and requires a title insurance company to exclude a void disclaimer of interest, map, or notice from any documents it prepares after the effective date of the act. Specifies that no cause of action at law or in equity shall be maintained based upon:

- The act of preparing, filing, or recording a disclaimer of interest, map, or notice lawfully filed or recorded and subsequently voided;
- The voiding of such a disclaimer of interest, map, or notice; or
- The inclusion or exclusion of such a disclaimer of interest, map, or notice from any document prepared by a title insurance company.

Makes a conforming amendment.

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

2 **SECTION 1.** 7-45-108 (1) and (3), Colorado Revised Statutes,
3 are amended, and the said 7-45-108 is further amended BY THE
4 ADDITION OF A NEW SUBSECTION, to read:

5 **7-45-108. County clerk notification.** (1) Within ninety days of
6 filing a formation document pursuant to section 7-45-101, a toll road or
7 toll highway company shall:

8 (a) ~~Cause MAIL written notice to be sent to and recorded by the~~

1 ~~clerk and recorder of each county that includes territory that is included~~
2 ~~within the three-mile corridor specified in the filed formation document~~
3 of the intent of the toll road or toll highway company to construct a toll
4 road, toll highway, or toll road or toll highway project within ~~that corridor~~
5 ~~and shall mail the written notice~~ THE THREE-MILE CORRIDOR SPECIFIED IN
6 THE FILED FORMATION DOCUMENT to each person who owns real property
7 within the three-mile corridor AND TO EACH MUNICIPAL, COUNTY, OR
8 REGIONAL PLANNING COMMISSION THAT IS RESPONSIBLE FOR PLANNING IN
9 ANY PART OF THE THREE-MILE CORRIDOR. The toll road or toll highway
10 company shall send the notice by certified mail and shall generally
11 describe the proposed toll road, toll highway, or project, including its
12 location, termini, improvements, and operation. The notice shall also
13 explain that the project may not go forward until the process for
14 approving the project required by this article has been completed,
15 summarize the approval process, identify opportunities during the process
16 for public involvement, and provide a contact for additional information.
17 EACH PLANNING COMMISSION THAT RECEIVES THE NOTICE SHALL MAKE
18 THE NOTICE AVAILABLE FOR PUBLIC VIEWING ON ITS PUBLIC INTERNET WEB
19 SITE, UNLESS IT DOES NOT MAINTAIN SUCH A WEB SITE, IN WHICH CASE IT
20 SHALL MAKE THE NOTICE AVAILABLE FOR PUBLIC VIEWING AT ITS OFFICE.

21 (b) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (1.5) OF THIS
22 SECTION, file a disclaimer of interest and map of the three-mile corridor
23 with the clerk and recorder's office in the county of residence of each
24 person to whom the company provided written notice pursuant to
25 paragraph (a) of this subsection (1) that expressly states that the filed
26 formation document does not effect an interest in the person's real
27 property within the three-mile corridor specified in the filed formation

1 document.

2 (1.5) (a) ON AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION
3 (1.5), A PRIVATE TOLL ROAD OR TOLL HIGHWAY COMPANY MAY NOT FILE
4 A DISCLAIMER OF INTEREST AND MAP AS OTHERWISE REQUIRED BY
5 PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION AND MAY NOT FILE
6 WITH THE CLERK AND RECORDER OF ANY COUNTY THE WRITTEN NOTICE
7 REQUIRED TO BE MAILED TO PERSONS WHO OWN REAL PROPERTY IN ITS
8 THREE-MILE CORRIDOR PURSUANT TO PARAGRAPH (a) OF SUBSECTION (1)
9 OF THIS SECTION. ANY PROPERLY AUTHORIZED AND LEGALLY FILED
10 DISCLAIMER OF INTEREST, MAP, OR WRITTEN NOTICE FILED OR RECORDED
11 BY A PRIVATE TOLL ROAD OR TOLL HIGHWAY COMPANY BEFORE THE
12 EFFECTIVE DATE OF THIS SUBSECTION (1.5) IS HEREBY DECLARED VOID
13 AND OF NO EFFECT. THE VOIDING OF A DISCLAIMER OF INTEREST, MAP, OR
14 WRITTEN NOTICE PURSUANT TO THIS SUBSECTION (1.5) CONCLUSIVELY
15 ESTABLISHES THAT THE DISCLAIMER OF INTEREST, MAP, OR WRITTEN
16 NOTICE DOES NOT AFFECT THE TITLE TO ANY PROPERTY OR HAVE ANY
17 OTHER LEGAL EFFECT, AND A TITLE INSURANCE COMPANY SHALL EXCLUDE
18 A VOID DISCLAIMER OF INTEREST, MAP, OR WRITTEN NOTICE FROM ANY
19 DOCUMENTS IT PREPARES AFTER THE EFFECTIVE DATE OF THIS SUBSECTION
20 (1.5).

21 (b) NO CAUSE OF ACTION AT LAW OR IN EQUITY SHALL BE
22 MAINTAINED BASED UPON:

23 (I) THE ACT OF PREPARING, FILING, OR RECORDING A DISCLAIMER
24 OF INTEREST, MAP, OR WRITTEN NOTICE LAWFULLY FILED OR RECORDED
25 PURSUANT TO SUBSECTION (1) OF THIS SECTION AND SUBSEQUENTLY
26 VOIDED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1.5);

27 (II) THE VOIDING OF SUCH A DISCLAIMER OF INTEREST, MAP, OR

1 WRITTEN NOTICE; OR

2 (III) THE INCLUSION OR EXCLUSION OF SUCH A DISCLAIMER OF
3 INTEREST, MAP, OR WRITTEN NOTICE FROM ANY DOCUMENT PREPARED BY
4 A TITLE INSURANCE COMPANY.

5 (3) ~~Compliance with the notification and filing requirements of~~
6 ~~subsections (1) and (2) of this section shall constitute compliance with the~~
7 ~~notification, filing, and recording requirements of section 38-2-101 (2);~~
8 ~~C.R.S., as enacted by Senate Bill 06-115, enacted at the second regular~~
9 ~~session of the sixty-fifth general assembly.~~

10 SECTION 2. 38-2-101 (2) and (5) (a), Colorado Revised Statutes,
11 are amended to read:

12 **38-2-101. Who may condemn real estate, rights-of-way, or**
13 **other rights - additional requirements for private toll roads and toll**
14 **highways.** (2) Notwithstanding the provisions of subsection (1) of this
15 section, a toll road or toll highway company may not condemn real estate
16 or right-of-way, but the department of transportation may exercise,
17 subject to the conditions and limitations set forth in sections 7-45-104 and
18 43-1-1202 (1) (f), C.R.S., the power of eminent domain for purposes of
19 acquiring property and rights-of-way necessary for the completion of a
20 toll road or toll highway open to the public that is incorporated into the
21 comprehensive statewide transportation plan prepared pursuant to section
22 43-1-1103 (5), C.R.S., and is being undertaken as a public-private
23 initiative between the department and the company. ~~Such a toll road or~~
24 ~~toll highway company shall, within six months after the date of filing of~~
25 ~~its filed formation document, file and record with the county clerk and~~
26 ~~recorder of each county through which any portion of the proposed toll~~
27 ~~road or toll highway will pass a map or survey of the proposed route of~~

1 ~~the toll road or toll highway. The toll road or toll highway company shall~~
2 ~~include with the map or survey a statement of the proposed route of the~~
3 ~~toll road or toll highway, within three miles, and a listing of all property~~
4 ~~over or across which the proposed toll road or toll highway will be~~
5 ~~constructed, and shall file and record supplementary maps, surveys,~~
6 ~~statements, and listings upon any lawful change of the proposed route of~~
7 ~~the toll road or toll highway.~~

8 (5) As used in this section, unless the context otherwise requires:

9 (a) ~~"Filed formation document" shall have the meaning set forth~~
10 ~~in section 7-45-102 (7), C.R.S.~~

11 **SECTION 3. Safety clause.** The general assembly hereby finds,
12 determines, and declares that this act is necessary for the immediate
13 preservation of the public peace, health, and safety.