

Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

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.** 7-45-101 (1), Colorado Revised Statutes, is
3 amended to read:

4 **7-45-101. Formation of toll road or toll highway company -**
5 **description of corridor.** (1) A toll road or toll highway company shall
6 be formed under Colorado law, and ~~its filed formation document shall~~
7 ~~specify and map a three-mile corridor within which a toll road or toll~~
8 ~~highway or a toll road or toll highway project will be located and identify~~

1 ~~the general location of the termini within the corridor~~ ON AND AFTER THE
2 EFFECTIVE DATE OF THIS SUBSECTION (1), AS AMENDED, A TOLL ROAD OR
3 TOLL HIGHWAY COMPANY MAY NOT SPECIFY AND MAP A TRANSPORTATION
4 CORRIDOR IN ITS FILED FORMATION DOCUMENT. If a toll road or toll
5 highway company complies with the provisions of this article, it shall
6 have the power to erect toll gates and set and collect tolls.

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

10 **7-45-108. County clerk notification.** (1) Within ninety days of
11 filing a formation document pursuant to section 7-45-101, a toll road or
12 toll highway company shall:

13 (a) ~~Cause MAIL written notice to be sent to and recorded by the~~
14 ~~clerk and recorder of each county that includes territory that is included~~
15 ~~within the three-mile corridor specified in the filed formation document~~
16 of the intent of the toll road or toll highway company to construct a toll
17 road, toll highway, or toll road or toll highway project within ~~that corridor~~
18 ~~and shall mail the written notice~~ THE THREE-MILE CORRIDOR SPECIFIED IN
19 THE FILED FORMATION DOCUMENT to each person who owns real property
20 within the three-mile corridor AND TO EACH MUNICIPAL, COUNTY, AND
21 REGIONAL PLANNING COMMISSION THAT IS RESPONSIBLE FOR PLANNING IN
22 ANY PART OF THE THREE-MILE CORRIDOR. The toll road or toll highway
23 company shall send the notice by certified mail and shall generally
24 describe the proposed toll road, toll highway, or project, including its
25 location, termini, improvements, and operation. The notice shall also
26 explain that the project may not go forward until the process for
27 approving the project required by this article has been completed,

1 summarize the approval process, identify opportunities during the process
2 for public involvement, and provide a contact for additional information.
3 EACH PLANNING COMMISSION THAT RECEIVES THE NOTICE SHALL MAKE
4 THE NOTICE AVAILABLE FOR PUBLIC VIEWING ON ITS PUBLIC INTERNET WEB
5 SITE, UNLESS IT DOES NOT MAINTAIN SUCH A WEB SITE, IN WHICH CASE IT
6 SHALL MAKE THE NOTICE AVAILABLE FOR PUBLIC VIEWING AT ITS OFFICE.

7 (b) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (1.5) OF THIS
8 SECTION, file a disclaimer of interest and map of the three-mile corridor
9 with the clerk and recorder's office in the county of residence of each
10 person to whom the company provided written notice pursuant to
11 paragraph (a) of this subsection (1) that expressly states that the filed
12 formation document does not effect an interest in the person's real
13 property within the three-mile corridor specified in the filed formation
14 document.

15 (1.5) (a) ON AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION
16 (1.5), A PRIVATE TOLL ROAD OR TOLL HIGHWAY COMPANY MAY NOT FILE
17 A DISCLAIMER OF INTEREST AND MAP AS OTHERWISE REQUIRED BY
18 PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION AND MAY NOT FILE
19 WITH THE CLERK AND RECORDER OF ANY COUNTY THE WRITTEN NOTICE
20 REQUIRED TO BE MAILED TO PERSONS WHO OWN REAL PROPERTY IN ITS
21 THREE-MILE CORRIDOR PURSUANT TO PARAGRAPH (a) OF SUBSECTION (1)
22 OF THIS SECTION. ANY PROPERLY AUTHORIZED AND FILED DISCLAIMER
23 OF INTEREST, MAP, OR WRITTEN NOTICE FILED OR RECORDED BY A PRIVATE
24 TOLL ROAD OR TOLL HIGHWAY COMPANY BEFORE THE EFFECTIVE DATE OF
25 THIS SUBSECTION (1.5) IS HEREBY DECLARED VOID AND OF NO EFFECT.
26 THE VOIDING OF A DISCLAIMER OF INTEREST, MAP, OR WRITTEN NOTICE
27 PURSUANT TO THIS SUBSECTION (1.5) CONCLUSIVELY ESTABLISHES THAT

1 THE DISCLAIMER OF INTEREST, MAP, OR WRITTEN NOTICE DOES NOT AFFECT
2 THE TITLE TO ANY PROPERTY OR HAVE ANY OTHER LEGAL EFFECT, AND A
3 TITLE INSURANCE COMPANY SHALL EXCLUDE A VOID DISCLAIMER OF
4 INTEREST, MAP, OR WRITTEN NOTICE FROM ANY DOCUMENTS IT PREPARES
5 AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (1.5).

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

8 (I) THE ACT OF PREPARING, FILING, OR RECORDING A DISCLAIMER
9 OF INTEREST, MAP, OR WRITTEN NOTICE [REDACTED] FILED OR RECORDED
10 PURSUANT TO SUBSECTION (1) OF THIS SECTION AND SUBSEQUENTLY
11 VOIDED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1.5);

12 (II) THE VOIDING OF SUCH A DISCLAIMER OF INTEREST, MAP, OR
13 WRITTEN NOTICE; OR

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

17 [REDACTED]

18 **SECTION 3.** 38-2-101 (2), Colorado Revised Statutes, is
19 amended to read:

20 **38-2-101. Who may condemn real estate, rights-of-way, or**
21 **other rights - additional requirements for private toll roads and toll**
22 **highways.** (2) Notwithstanding the provisions of subsection (1) of this
23 section, a toll road or toll highway company may not condemn real estate
24 or right-of-way, but the department of transportation may exercise,
25 subject to the conditions and limitations set forth in sections 7-45-104 and
26 43-1-1202 (1) (f), C.R.S., the power of eminent domain for purposes of
27 acquiring property and rights-of-way necessary for the completion of a

1 toll road or toll highway open to the public that is incorporated into the
2 comprehensive statewide transportation plan prepared pursuant to section
3 43-1-1103 (5), C.R.S., and is being undertaken as a public-private
4 initiative between the department and the company. Such a toll road or
5 toll highway company shall, within six months after the date of filing of
6 its filed formation document, ~~file and record with the county clerk and~~
7 ~~recorder of each county~~ SEND TO EACH MUNICIPAL, COUNTY, AND
8 REGIONAL PLANNING COMMISSION THAT IS RESPONSIBLE FOR PLANNING IN
9 ANY AREA through which any portion of the proposed toll road or toll
10 highway will pass a map or survey of the proposed route of the toll road
11 or toll highway. The toll road or toll highway company shall include with
12 the map or survey a statement of the proposed route of the toll road or toll
13 highway, within three miles, and a listing of all property over or across
14 which the proposed toll road or toll highway will be constructed, and shall
15 ~~file and record~~ ALSO SEND TO EACH AFFECTED COMMISSION supplementary
16 maps, surveys, statements, and listings upon any lawful change of the
17 proposed route of the toll road or toll highway.

18 **SECTION 4. Safety clause.** The general assembly hereby finds,
19 determines, and declares that this act is necessary for the immediate
20 preservation of the public peace, health, and safety.