TITLE 36

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PUBLIC LANDS AND RIVERS

General and Administrative

ARTICLE 1

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36-1-100.3. Definitions.

As used in this article 1, unless the context otherwise requires:

(1) "Commercial real property" means real property intended to generate income either from capital gain or rental income, such as office buildings.

(1.5) "Department" means the department of natural resources created in section 24-33-101 (1).

(1.7) "Division of parks and wildlife" means the division of parks and wildlife created in section 33-9-104 (1).

(2) "Land" means any ground, soil, water, real property, commercial real property, minerals, mineral resources, or earth whatsoever.

(2.4) "Long-term benefits and returns to the state" means, with regard to the long-term stewardship trust:

(a) Benefitting future generations in recognition of the perpetual, intergenerational public trust obligations;

(b) Protecting the underlying natural resource base and asset value to ensure returns for future generations of beneficiaries and achieve intergenerational equity; and

(c) Utilizing sound stewardship to maintain long-term value.

(2.5) "Long-term productivity" means sustainable economic potential, productivity, and value of state trust lands.

(2.6) "Long-term stewardship trust" or "stewardship trust" means the long-term stewardship trust established by the state board of land commissioners pursuant to section 10 (1)(b)(I) of article IX of the state constitution and section 36-1-107.5 (1).

(2.7) "Long-term value" means the option to preserve a natural benefit for a future economic use or productivity, even if the natural benefit is not currently in use or being monetized or if the likelihood of future use or monetization is unknown.

(3) "Minerals" or "mineral resources" means any valuable inert or lifeless substance formed or deposited in its present position through natural agencies and which is found either in or on the soil or rock of the earth, including without limitation those commodities subject to regulation under articles 32, 32.5, 33, and 60 of title 34, C.R.S., including but not limited to oil, gas, coal, sand, gravel, and other minerals.

(4) "Permanent school fund" means the public school fund created in section 3 of article IX of the state constitution, which is the same as the public school fund described in section 22-41-102, C.R.S.

(5) "Real property" means buildings, structures, fixtures, and improvements on land, and every estate, interest, privilege, tenement, easement, right-of-way, and other right in land, legal or equitable, including leasehold interests.

(5.5) "Sound stewardship" means the use of natural resources on state trust lands in manners that produce reasonable and consistent income over time and that will protect the long-term economic value and long-term productivity of the state trust lands for future generations of beneficiaries.

(6) "State board of land commissioners" or "state board" means the state board of land commissioners described in section 36-1-101.5.

(7) "State school lands" means an endowment of land assets held in a perpetual, intergenerational public trust for the support of public schools.

(8) "Work group" means the state trust lands conservation and recreation work group convened pursuant to section 36-1-152.3.

Source: L. 97: Entire section added, p. 832, § 1, effective May 21. **L. 2013:** Entire section amended, (HB 13-1274), ch. 376, p. 2208, § 1, effective June 5. **L. 2025:** IP amended and (1.5), (1.7), (2.4), (2.5), (2.6), (2.7), (5.5), and (8) added, (HB 25-1332), ch. 184, p. 798, § 2, effective August 6.

Cross references: For the legislative declaration in HB 25-1332, see section 1 of chapter 184, Session Laws of Colorado 2025.

36-1-101. Record of proceedings.

The state board of land commissioners shall keep a complete record of its proceedings in a suitable book and shall preserve all important papers and documents pertaining to the state lands.

Source: L. 19: p. 637, § 1. **C.L.** § 1146. **CSA:** C. 134, § 44. **CRS 53:** § 112-3-1. **C.R.S. 1963:** § 112-3-1.

36-1-101.5. Appointment of members - duties.

(1) The state board of land commissioners shall be composed of five members appointed by the governor, with the consent of the senate, one of whom shall be elected by the board as its president. The board shall meet at least once every month.

(2) The governor shall endeavor to appoint members of the board who reside in different geographic regions of the state. Not more than three members of the board may be affiliated with the same political party. The board consists of:

(a) One person with substantial experience in production agriculture;

(b) One person with substantial experience in public primary or secondary education;

(c) One person with substantial experience in local government and land use planning;

(d) One person with substantial experience in natural resource conservation; and

(e) One member at large who is a resident of the state.

(3) (a) The term of each member shall be for four years. No member shall serve more than two consecutive terms. Members of the board shall be subject to removal, and vacancies on the board shall be filled as provided in section 6 of article IV of the state constitution.

(b) and (c) Repealed.

(4) The members of the state board of land commissioners shall not, by virtue of their appointment, be employees of the state. The board members shall be reimbursed for their reasonable and necessary expenses and receive a per diem of fifty dollars per day for each day the member attends a board meeting, subject to appropriation by the general assembly from the income from the trust lands.

(5) The individual members of the state board of land commissioners shall have no personal liability for any action or failure to act as long as such action or failure to act does not involve willful or intentional malfeasance or gross negligence.

(6) (a) The people of the state of Colorado have recognized in section 10 of article IX of the state constitution that the state school lands are an endowment of land assets held in a perpetual, intergenerational public trust for the support of public schools, which should not be significantly diminished; that the disposition and use of such lands should therefore benefit public schools including local school districts; and that the economic productivity of all lands held in public

trust is dependent on sound stewardship, including protecting and enhancing the beauty, natural values, open space, and wildlife habitat thereof, for this and future generations. In recognition of these principles, the state board of land commissioners shall be governed by the standards set forth in section 10 of article IX of the state constitution in the discharge of its fiduciary obligations, in addition to other laws generally applicable to trustees.

(b) The state board of land commissioners shall serve as the trustee for the lands granted to the state in public trust by the federal government, lands acquired in lieu thereof, and additional lands held by the board in public trust. The board shall have the duty to manage, control, encumber, and dispose of such lands in accordance with the purposes for which said grants of land were made and section 10 of article IX of the state constitution, and subject to such terms and conditions consistent therewith as may be prescribed by law.

(c) It shall be the duty of the state board of land commissioners to provide for the prudent management, location, protection, sale, exchange, or other disposition of all lands heretofore, or which may hereafter be, held by the board as trustee pursuant to subsection (6) of section 9 of article IX of the state constitution, in order to produce a reasonable and consistent income over time. The state board of land commissioners shall protect and enhance the long-term productivity and sound stewardship of the trust lands held by the board.

(d) The state board of land commissioners shall manage the development and utilization of natural resources on state lands in a manner which will conserve the long-term value of such resources, as well as existing and future uses, and in accordance with state and local laws and regulations.

Source: L. 77: Entire section added, p. 1619, § 1, effective May 26. **L. 97:** Entire section amended, p. 832, § 2, effective May 21. **L. 2022:** IP(2) and (2)(e) amended, (SB 22-013), ch. 2, p. 81, § 110, effective February 25.

Editor's note: Subsection (3)(c) provided for the repeal of subsections (3)(b) and (3)(c), effective June 30, 2002. (See L. 97, p. 832.)

36-1-102. Employees - director - bonds - report.

(1) (a) The state board of land commissioners shall hire, pursuant to section 13 of article XII of the state constitution and with the consent of the governor, a director, and, through the director, shall employ an office force. The director shall, subject to the general policies of the state board of land commissioners, have administrative direction over the activities of the state board of land commissioners. The state board of land commissioners may contract for office

space, acquire equipment and supplies, and enter into contracts as necessary to accomplish its duties.

(b) It is the duty of the director to keep the records of the state board of land commissioners; to make out and countersign all patents and leases issued by the board to purchasers and lessees of state lands, and keep a suitable record of the same; to file and preserve bonds of lessees and those given by purchasers to secure deferred payments; to make and deliver to purchasers a suitable certificate of purchase; to have the custody of the seal of the state board of land commissioners; to keep the minutes of the board; to receive all moneys collected on account of the state board of land commissioners, and to pay them over to the state treasurer, as prescribed by law; and to perform such other duties concerning the land affairs of the state as the said board may direct.

(2) (Deleted by amendment, L. 97, p. 835, § 3, effective May 21, 1997.)

(3) The board shall be provided with a suitable office and office furniture by the office of state planning and budgeting.

(4) The state board of land commissioners shall publish on or before November 1 of each year, subject to the approval and control of the executive director of the department of natural resources, a summary of the transactions of the state board of land commissioners, and the land affairs of the state, showing, by tables, the land belonging to the several funds of the state, to whom sold, the amount leased, and the receipts from all sources, and such summary shall contain any such other items or information concerning state lands as the state board of land commissioners or the executive director of the department of natural resources may deem worthy of publication. The state board of land commissioners shall deliver the summary of land transactions prepared pursuant to this subsection (4) as specified in subsection (8) of this section.

(5) Before assuming the duties of his office, each member of the state board of land commissioners shall give a surety bond, the expense of which shall be paid from the operating funds of the state board of land commissioners, in the sum of thirty thousand dollars, conditional upon the faithful discharge of his duties, which bond shall be approved by the governor and state treasurer and filed with the secretary of state.

(6) The board shall report annually to the executive director of the department of natural resources at such time and on such matters as the executive director may require. Publications of the board circulated in quantity outside the department shall be subject to the approval and control of the executive director.

(7) Repealed.

(8) Notwithstanding section 24-1-136 (11)(a)(I), the state board of land commissioners shall deliver a copy of the summary of land transactions required pursuant to subsection (4) of this section, the investment and development fund report required pursuant to section 36-1-153 (4),

and the income and inventory report required pursuant to section 36-1-153.5 (1) on or before November 1, 2011, and on or before November 1 of each year thereafter, to the members of the house and senate education committees, or any successor committees, the members of the house agriculture, livestock, and natural resources committee and the senate agriculture and natural resources committee, or any successor committees, the members of the joint budget committee, the members of the state board of education, and the state treasurer. In addition, the state board of land commissioners shall make the summary of land transactions, the investment and development fund report, and the income and inventory report available to the public on the state board of land commissioners website on or before November 1, 2011, and on or before November 1 of each year thereafter.

Source: L. 19: p. 638, § 2. **C.L.** § 1147. **CSA:** C. 134, § 45. **CRS 53:** § 112-3-2. **C.R.S. 1963:** § 112-3-2. **L. 64:** p. 164, § 120. **L. 75:** (3) amended, p. 821, § 16, effective July 18, 1975. **L. 85:** (7) added, p. 242, § 4, effective May 16, 1985. **L. 96:** (7) repealed, p. 1222, § 20, effective August 7. **L. 97:** (1) and (2) amended, p. 835, § 3, effective May 21. **L. 2011:** (4) amended and (8) added, (SB 11-029), ch. 51, p. 132, § 1, effective August 10. **L. 2017:** (8) amended, (HB 17-1257), ch. 254, p. 1065, § 9, effective August 9.

Cross references: (1) For the state personnel system, see § 13 of art. XII, Colo. Const., and article 50 of title 24.

(2) For the legislative declaration contained in the 1996 act repealing subsection (7), see section 1 of chapter 237, Session Laws of Colorado 1996.

36-1-103. Deputy register - duties - bond. (Repealed)

Source: L. 19: p. 639, § 3. **C.L.** § 1148. **CSA:** C. 134, § 47. **CRS 53:** § 112-3-3. **C.R.S. 1963:** § 112-3-3. **L. 97:** Entire section repealed, p. 835, § 4, effective May 21.

36-1-104. Deed - execution - copy of record.

(1) The governor is authorized, and, in case of his absence or inability, the lieutenant governor is authorized, to execute a good and sufficient deed or patent of conveyance transferring any lands which may be ordered sold or which shall be sold and disposed of by the state board of land commissioners under the statutes of this state. Such deed or patent shall be attested by the secretary of state, countersigned by the director of the state board of land

commissioners, and have the great seal of the state and the seal of the state board of land commissioners thereto attached, but need not be acknowledged. A certified copy of the record of any such deed or patent shall be receivable in evidence in all courts of record in this state, the same as the original.

(2) Where such deed or patent may be issued pursuant to this section to a person who has died before the date of such deed or patent, the title to the land designated therein shall inure to and become vested in the heirs, devisees, or assignees of such deceased grantee or patentee as if the deed or patent had issued to the deceased person during life.

Source: L. 19: p. 640, § 4. **C.L.** § 1149. **CSA:** C. 134, § 48. **L. 49:** p. 552, § 1. **CRS 53:** § 112-3-4. **C.R.S. 1963:** § 112-3-4. **L. 97:** (1) amended, p. 836, § 5, effective May 21.

36-1-105. Selection and location of lands.

It is the duty of the state board of land commissioners to select and locate all lands which are on or after March 31, 1919, granted to this state by the general government, for any purpose whatever, and the board shall take the necessary steps to secure the approval of such selections by the proper officers of the general government. In making such selections, the board may employ such agents and means as may be necessary to acquaint the board with the character of the lands selected; and the board may provide to have the lands belonging to the state classified and appraised.

Source: L. 19: p. 640, § 5. **C.L.** § 1150. **CSA:** C. 134, § 49. **CRS 53:** § 112-3-5. **C.R.S. 1963:** § 112-3-5.

36-1-106. Appraisers' reports. (Repealed)

Source: L. 17: p. 506, § 3. **C.L.** § 1153. **CSA:** C. 134, § 52. **CRS 53:** § 112-3-6. **C.R.S. 1963:** § 112-3-6. **L. 97:** Entire section repealed, p. 836, § 6, effective May 21.

36-1-107. Resolution of selection.

The state board of land commissioners from time to time shall make selection and location of the lands to which the state is entitled under the several grants of land from congress by including in its minutes a proper resolution, particularly designating all such pieces, parcels, or

tracts of land so selected and located, and thereupon from time to time said board shall promptly take all necessary and proper steps to effectually secure the approval thereof by the proper officers of the general government.

Source: L. 17: p. 506, § 4. **C.L.** § 1154. **CSA:** C. 134, § 53. **CRS 53:** § 112-3-7. **C.R.S. 1963:** § 112-3-7.

36-1-107.5. Long-term stewardship trust - nomination.

(1) In order to fulfill the mandate of section 10 (1)(b)(I) of article IX of the state constitution, the state board of land commissioners shall, through a statewide public nomination process, establish a long-term stewardship trust of up to three hundred thousand acres of land that the state board of land commissioners determines to be valuable primarily to preserve long-term benefits and returns to the state and to be held and managed to maximize options for continued stewardship, public use, or future disposition. In holding such lands in trust, the state board of land commissioners shall permit only those uses that will protect and enhance the beauty, natural values, open space, and wildlife habitat of those lands; except that any such restrictions on use need not necessarily preclude existing uses or management practices including but not limited to mineral resources, agricultural, and grazing uses.

(2) (a) The state board of land commissioners shall provide written notification of any lands under consideration to be selected for the long-term stewardship trust to any present lessees with interest in such lands and the board of county commissioners, if such lands are located within the unincorporated portion of a county, the municipal governing body, if such lands are located within an incorporated municipality, or both the board of county commissioners and the municipal governing body, if such lands are located within three miles of any incorporated municipality.

(b) In such notification, the state board of land commissioners shall request the local governing body or bodies to comment on whether existing uses and management practices are in compliance with valid local land use regulations and land use plans as required in section 10 (1)(c) of article IX of the state constitution. The state board of land commissioners shall further request in such notification that, within forty-five days after receipt of the notification, the local governing body or bodies provide comment to the state board of land commissioners on whether the selection is in accordance with the provisions of article IX of the state constitution.

(c) In the notification, the state board of land commissioners shall also request that the local governing body or bodies may also include in its assessment and response any other factors the local governing body or bodies determine are relevant for the consideration of lands for the long-

term stewardship trust, including the criteria set forth in this section and in sections 9 and 10 of article IX of the state constitution.

(d) If the state board of land commissioners' staff recommendation is in conflict with the assessment of the governing body or bodies, the state board of land commissioners shall submit a written response, by certified mail, to the appropriate governing body or bodies at least fourteen days before making a final decision on a selection of lands on which the local governing body or bodies have provided written comment.

(3) The state board of land commissioners shall develop and implement a statewide public nominating process for lands to be included in the long-term stewardship trust established pursuant to subsections (1) and (2) of this section. Using this process, the state board of land commissioners shall designate at least two hundred thousand acres of land to be part of the long-term stewardship trust on or before January 1, 1999, and shall designate at least an additional ninety-five thousand acres on or before January 1, 2001.

(4) In selecting and locating lands for inclusion in the long-term stewardship trust, the state board of land commissioners shall make its determination based on criteria and requirements set forth in section 10 of article IX of the state constitution, including the provision specifying that the use of land in the long-term stewardship trust shall comply with valid local land use regulations and land use plans.

(5) The state board of land commissioners may remove specific parcels of land from the long-term stewardship trust only upon the affirmative vote of four members of the state board of land commissioners and upon the designation or exchange of an equal or greater amount of additional land into said trust.

(6) Prior to the inclusion of any land in the long-term stewardship trust, the state board of land commissioners shall consult existing published information concerning the agricultural and mineral resources potential of said land, including master plans developed under section 34-1-304, C.R.S. If information as to agricultural and mineral resource potential is inadequate, the board shall obtain an inventory of the mineral resources potential of said land first from the Colorado geological survey, or, if the Colorado geological survey is unable to complete such inventory, from an entity of equivalent credibility. If such inventory is not completed within one year after the request by the state board of land commissioners or is not completed prior to the deadline set forth in section 10 of article IX of the state constitution, the inclusion of such land in the long-term stewardship trust may proceed.

Source: L. 97: Entire section added, p. 836, § 7, effective May 21. **L. 98:** (2) (c) amended, p. 828, § 49, effective August 5.

36-1-108. Appraisal - classification - plat.

Immediately after the selection of said indemnity land is completed, the state board of land commissioners shall begin a general appraisal of all lands owned by the state. The board shall provide proper books for such purpose wherein shall be set forth the legal description, general character and adaptability, and appraised valuation of each of the several pieces, parcels, or tracts of lands so classified and appraised, together with such other useful information as the board shall deem necessary. The board also from time to time shall provide proper plats showing all such lands so classified and appraised.

Source: L. 17: p. 506, § 5. **C.L.** § 1155. **CSA:** C. 134, § 54. **CRS 53:** § 112-3-8. **C.R.S. 1963:** § 112-3-8.

36-1-109. Reclassification.

The state board of land commissioners has the power from time to time to reclassify and reappraise any lands owned by the state and shall make the same record thereof as provided by this article for the original classification and appraisal of such lands and shall make the necessary notations or changes on its existing records.

Source: L. 17: p. 507, § 6. **C.L.** § 1156. **CSA:** C. 134, § 55. **CRS 53:** § 112-3-9. **C.R.S. 1963:** § 112-3-9.

36-1-110. Books and plats - public records.

All books and plats required by this article to be provided and kept by the state board of land commissioners shall be a part of the public records of said board and shall be open to inspection.

Source: L. 17: p. 507, § 7. **C.L.** § 1157. **CSA:** C. 134, § 56. **CRS 53:** § 112-3-10. **C.R.S. 1963:** § 112-3-10.

36-1-111. Land appraisers. (Repealed)

Source: L. 19: p. 640, § 6. **C.L.** § 1158. **CSA:** C. 134, § 57. **CRS 53:** § 112-3-11. **C.R.S. 1963:** § 112-3-11. **L. 97:** Entire section repealed, p. 838, § 8, effective May 21.

36-1-112. Fees - disposition of fees.

(1) The state board of land commissioners is authorized to collect fees for the issuance of leases, patents, certificates of purchase, right-of-way documents, and recording assignments, for the making of township plats, for the filing of bonds, and for the filing of all documents necessary to be filed in the office at amounts set by the board which shall cover all direct and indirect costs of the board in the administration of this article.

(2) All moneys collected by the state board of land commissioners for fees collected as specified in subsection (1) of this section shall be deposited by the director of the state board of land commissioners with the state treasurer for credit as provided in section 36-1-148.

Source: L. 19: p. 641, § 7. **C.L.** § 1159. **CSA:** C. 134, § 58. **L. 45:** p. 522, § 1. **CRS 53:** § 112-3-12. **C.R.S. 1963:** § 112-3-12. **L. 65:** p. 921, § 1. **L. 71:** pp. 1096, 1097, §§ 2, 3. **L. 77:** (1)(q) added, p. 1620, § 1, effective May 26. **L. 79:** Entire section amended, p. 1345, § 1, effective July 1. **L. 92:** Entire section amended, p. 1909, § 1, effective March 4. **L. 97:** (2) amended, p. 838, § 9, effective May 21.

ANNOTATION

Salaries or expenses of the board are to be paid only from the fees and commissions authorized by this section. In re Salaries of Comm'rs & Employees of State Land Bd., 55 Colo. 105, 133 P. 140 (1913) (decided prior to earliest source of this section).

36-1-112.5. Fiscal impact study.

Prior to the lease, sale, or exchange of any lands for commercial, residential, or industrial development, the state board of land commissioners shall determine that the income from the proposed lease, sale, or exchange can reasonably be anticipated to exceed the fiscal impact of such development on local school districts and state funding of education from increased school enrollment associated with such development. When determining the fiscal impact of the proposed lease, sale, or exchange of any land that is a part of any mining operation, the state board of land commissioners shall consider the fiscal and other benefits to the local school districts from the development of the entire operation.

Source: L. 97: Entire section added, p. 838, § 10, effective May 21.

36-1-113. Leases - rental - mineral resources lands.

(1) The state board of land commissioners may lease any portion of the land of the state at a rental to be determined by it, except as provided in sections 36-1-118, 36-1-123.5, 36-1-147, and 36-1-147.5. The lessee shall pay the annual rental to the board, who shall receipt for the same in the lease. Upon receiving such annual rental, the board shall transmit the same to the state treasurer, as provided by law, and take his or her receipt therefor. If geothermal resources or mineral resources are found upon the state land, such land may be leased for the purpose of removing such resources for such length of time and conditioned upon the payment to the board of such royalty upon the product as the board may determine.

(2) All geothermal leases issued by the state board of land commissioners may be awarded as the result of negotiation or competitive bidding, but no such lease shall be executed until after at least thirty days' public notice that the award of a lease is contemplated.

(3) (a) (I) As used in this subsection (3), "logical mining area" means an area of land in which metallic and industrial minerals, construction materials, or coal resources can be developed in an efficient, economical, and orderly manner as an integrated operation with due regard to conservation of such resources. A logical mining area may consist of state lands including one or more state surface or mineral leases, or both such types of leases, and may include lands owned by other persons or entities.

(II) As used in this subsection (3), "oil and gas unit" means a federal exploratory unit pursuant to unit plan regulations under 43 CFR 3160, unit operations under section 34-60-118, C.R.S., or drilling and spacing units and pooling of interests under section 34-60-116, C.R.S. An oil and gas unit may consist of state lands including one or more state surface or mineral leases, or both such types of leases, and may include lands owned by other persons or entities.

(b) With respect to all surface and mineral lands, or both, included in whole or in part in a logical mining area for those operations permitted under article 32, 32.5, or 33 of title 34, C.R.S., as of July 1, 1997, or, in an oil and gas unit established under applicable federal or state law as of July 1, 1997, nothing in this article shall preclude the state board of land commissioners from issuing a new lease, renewing an existing lease, or issuing a lease extension consistent with article IX of the state constitution to facilitate the complete and orderly development and reclamation of such mining operations or of such oil and gas operations.

(c) (I) When the state board of land commissioners considers whether a lease for such land included in a logical mining area or in an oil and gas unit established under applicable federal or state law as of July 1, 1997, should be issued, renewed, or extended to accomplish the orderly development and reclamation of a logical mining area or to conduct oil and gas operations, the state board of land commissioners shall specifically consider in making its findings:

(A) Whether the benefit to the trust, including the current or proposed income produced from the mining or oil and gas operation, is outweighed by current or proposed uses other than the mining or oil and gas operation; and

(B) Whether the mining or oil and gas operation is incompatible with current or proposed uses.

(II) Nothing in this section shall affect the obligation of any lessee from complying with any federal, state, or local law, rule, code, or regulation.

Source: L. 19: p. 642, § 8. **C.L.** § 1160. **CSA:** C. 134, § 59. **CRS 53:** § 112-3-13. **C.R.S. 1963:** § 112-3-13. **L. 74:** Entire section amended, p. 313, § 2, effective May 17. **L. 75:** Entire section amended, p. 222, § 75, effective July 16. **L. 97:** (1) amended and (3) added, p. 839, § 11, effective May 21. **L. 2007:** (1) amended, p. 620, § 1, effective August 3. **L. 2009:** (1) amended, (HB 09-1317), ch. 381, p. 2073, § 3, effective June 2.

ANNOTATION

The matter of the lease of coal lands is wholly within the discretion of the board with respect to the terms and conditions on which the lease may be granted. Colo. Fuel & Iron Co. v. Adams, 14 Colo. App. 84, 60 P. 367 (1899) (decided prior to earliest source of this section).

The general assembly may not limit commissioners' power to lease certain land. Where the land included within oil and gas leases are lands "granted to the state by the general government", they are lands over which the land commissioners have exclusive powers of disposal. Therefore, it does not lie within the power of the general assembly to place limitation or qualification upon the exercise of that power. Sunray Mid-Continent Oil Co. v. State, 149 Colo. 159, 368 P.2d 563 (1963).

The leasing powers of the board under this section are subject to the implied limitation that it cannot lease state land already properly in the physical possession of others under the mining laws. Dallas v. Fitzsimmons, 137 Colo. 196, 323 P.2d 274 (1958).

Where mineral lode locations are made on state lands in compliance with the state laws relating to discovery, posting, notice, and other applicable provisions, such claims take priority over a subsequent mineral lease issued by a duly authorized state leasing agency. Dallas v. Fitzsimmons, 137 Colo. 196, 323 P.2d 274 (1958).

36-1-114. Adjustment of rentals.

When, in its opinion, conditions justify, the state board of land commissioners has the power to adjust rentals under any existing, expired, or defaulted lease on state lands in a manner to comply with the requirements of sections 9 and 10 of article IX of the state constitution and may accept payments on delinquent rentals in accordance with such adjustments.

Source: L. 37: p. 939, § 1. **CSA:** C. 134, § 59(1). **CRS 53:** § 112-3-14. **C.R.S. 1963:** § 112-3-14. **L. 97:** Entire section amended, p. 840, § 12, effective May 21.

36-1-115. Development of oil, gas, or geothermal resource areas.

The state board of land commissioners is authorized to join on behalf of the state in a cooperative or unit plan of development or operation for any oil, gas, or geothermal resource pool, field, or area, or for any part of any such pool, field, or area, with the United States government and its lessees or with others or with both such parties and, for that purpose, is authorized at or after the time of joining to modify and change any and all terms of the leases issued under the provisions of articles 1 to 7 of this title as mutually agreed by the lessor and lessee in any such lease, including the extension of the term of years otherwise applicable to any such lease for the full period of time such cooperative or unit plan may remain in effect, as required to conform with the terms of any such lease to such cooperative or unit plan and to facilitate the efficient and economic production of the oil, gas, or geothermal resource from the lands so affected. Any such cooperative or unit plan, including lands owned by the state, may, in the discretion of the state board of land commissioners, contain a provision whereby authority is vested in the secretary of the interior if lands of the United States are also included or in any such person, committee, or state or federal officer or agency as may be designated in the plan to alter or modify from time to time the rate of prospecting and development and the quantity and rate of production under such plan.

Source: L. 47: p. 692, § 1. **CSA:** C. 134, § 59(2). **CRS 53:** § 112-3-15. **C.R.S. 1963:** § 112-3-15. **L. 74:** Entire section amended, p. 314, § 3, effective May 17. **L. 2007:** Entire section amended, p. 2048, § 92, effective June 1.

Cross references: For leasing and development of school district lands for oil and gas, see § 22-32-112.

36-1-116. Disposition of rentals, royalties, and timber sale proceeds.

(1) (a) (I) Except for proceeds and payments allocated to the state land board trust administration fund pursuant to section 36-1-145 (3) or credited to the public school capital construction assistance fund created in section 22-43.7-104 (1), C.R.S., pursuant to section 22-43.7-104 (2)(b)(I), C.R.S., and except as provided in subparagraph (II) of this paragraph (a), proceeds received by the state for the sale of timber on public school lands, lease payments and rental payments for said lands, rental payments for the use and occupation of the surface of said lands, and rentals or lease payments for sand, gravel, clay, stone, coal, oil, gas, geothermal resources, gold, silver, or other minerals on said lands shall be credited to the public school income fund for distribution as provided by law.

(II) (A) Except as provided in subsections (1)(a)(II)(B) and (1)(a)(II)(C) of this section, for the 2010-11 state fiscal year and each state fiscal year thereafter, the proceeds received by the state for the sale of timber on public school lands, lease payments and rental payments for said lands, rental payments for the use and occupation of the surface of said lands, and rentals or lease payments for sand, gravel, clay, stone, coal, oil, gas, geothermal resources, gold, silver, or other minerals on said lands other than proceeds, rentals, and payments allocated to the state land board trust administration fund pursuant to section 36-1-145 (3) or credited to the public school capital construction assistance fund created in section 22-43.7-104 (1), pursuant to section 22-43.7-104 (2)(b)(I), shall be credited to the permanent school fund and shall become part of the principal of the permanent school fund.

(B) For the 2012-13 state fiscal year, all proceeds received by the state for the sale of timber on public school lands, lease payments and rental payments for said lands, rental payments for the use and occupation of the surface of said lands, and rentals or lease payments for sand, gravel, clay, stone, coal, oil, gas, geothermal resources, gold, silver, or other minerals on said lands other than proceeds, rentals, and payments allocated to the state land board trust administration fund pursuant to section 36-1-145 (3) or credited to the public school capital construction assistance fund created in section 22-43.7-104 (1), C.R.S., pursuant to section 22-43.7-104 (2)(b)(I), C.R.S., shall be transferred to the state public school fund created in section 22-54-114, C.R.S.

(C) For the 2020-21 state fiscal year, all proceeds received by the state for the sale of timber on public school lands, lease payments and rental payments for said lands, rental payments for the use and occupation of the surface of said lands, and rentals or lease payments for sand, gravel, clay, stone, coal, oil, gas, geothermal resources, gold, silver, or other minerals on said lands other than proceeds, rentals, and payments allocated to the state land board trust administration fund pursuant to section 36-1-145 (3) or credited to the public school capital construction assistance fund created in section 22-43.7-104 (1), pursuant to section 22-43.7-104 (2)(b)(I), shall be transferred to the state public school fund created in section 22-54-114.

(b) (I) Except for royalties and other payments allocated to the state land board trust administration fund pursuant to section 36-1-145 (3) or credited to the public school capital construction assistance fund created in section 22-43.7-104 (1), C.R.S., pursuant to section 22-43.7-104 (2)(b)(I), C.R.S., except as provided in subparagraph (II) of this paragraph (b), and except as provided in paragraph (c) of this subsection (1), royalties and other payments for the depletion or extraction of a natural resource on said lands shall be credited to the permanent school fund.

(II) (A) Repealed.

(B) For the 2009-10 state fiscal year, up to three million dollars of royalties and other payments for the depletion or extraction of a natural resource on said lands, other than royalties and other payments allocated to the state land board trust administration fund pursuant to section 36-1-145 (3) or credited to the public school capital construction assistance fund created in section 22-43.7-104 (1), C.R.S., pursuant to section 22-43.7-104 (2)(b)(I), C.R.S., shall be credited to the state board of land commissioners investment and development fund created in section 36-1-153.

(C) For the 2010-11 state fiscal year, up to four million dollars of royalties and other payments for the depletion or extraction of a natural resource on said lands, other than royalties and other payments allocated to the state land board trust administration fund pursuant to section 36-1-145 (3) or credited to the public school capital construction assistance fund created in section 22-43.7-104 (1), C.R.S., pursuant to section 22-43.7-104 (2)(b)(I), C.R.S., shall be credited to the state board of land commissioners investment and development fund created in section 36-1-153.

(D) For the 2011-12 state fiscal year and each state fiscal year thereafter, up to five million dollars of royalties and other payments for the depletion or extraction of a natural resource on said lands, other than royalties and other payments allocated to the state land board trust administration fund pursuant to section 36-1-145 (3) or credited to the public school capital construction assistance fund created in section 22-43.7-104 (1), C.R.S., pursuant to section 22-43.7-104 (2)(b)(I), C.R.S., shall be credited to the state board of land commissioners investment and development fund created in section 36-1-153.

(E) Subject to the limits specified in sub-subparagraphs (B), (C), and (D) of this subparagraph (II), the state board of land commissioners shall determine the exact amount of royalties and other payments for the depletion or extraction of a natural resource on public school lands that is to be credited to the state board of land commissioners investment and development fund pursuant to this subparagraph (II).

(F) For the 2022-23 state fiscal year, in addition to the money credited to the public school capital construction assistance fund created in section 22-43.7-104 (1) pursuant to section 22-43.7-104 (2)(b)(I), ten million dollars of royalties and other payments for the depletion or

extraction of a natural resource on the lands shall be credited to the public school capital construction assistance fund.

(c) (I) For the 2011-12 state fiscal year, the first twenty-one million dollars of royalties and other payments for the depletion or extraction of a natural resource on public school lands in excess of the moneys credited to the state land board trust administration fund pursuant to section 36-1-145 (3), credited to the public school capital construction assistance fund created in section 22-43.7-104 (1), C.R.S., pursuant to section 22-43.7-104 (2)(b)(I), C.R.S., and credited as specified in subparagraph (II) of paragraph (b) of this subsection (1) shall be transferred to the state public school fund created in section 22-54-114, C.R.S. Any amount of royalties and other payments for the depletion or extraction of a natural resource on public school lands in excess of the amounts described in this subparagraph (I) shall be credited to the permanent school fund and shall become part of the principal of the permanent school fund.

(II) For the 2012-13 state fiscal year, the first twenty-seven million dollars of royalties and other payments for the depletion or extraction of a natural resource on public school lands in excess of the moneys credited to the state land board trust administration fund pursuant to section 36-1-145 (3), credited to the public school capital construction assistance fund created in section 22-43.7-104 (1), C.R.S., pursuant to section 22-43.7-104 (2)(b)(I), C.R.S., and credited as specified in subparagraph (II) of paragraph (b) of this subsection (1) shall be transferred to the state public school fund created in section 22-54-114, C.R.S. Any amount of royalties and other payments for the depletion or extraction of a natural resource on public school lands in excess of the amounts described in this subparagraph (II) shall be credited to the permanent school fund and shall become part of the principal of the permanent school fund.

(III) For the 2020-21 state fiscal year, royalties and other payments for the depletion or extraction of a natural resource on public school lands not allocated to the state land board trust administration fund pursuant to section 36-1-145 (3), not credited to the public school capital construction assistance fund created in section 22-43.7-104 (1), pursuant to section 22-43.7-104 (2)(b)(I), and not credited as specified in subsection (1)(b)(II) of this section shall be transferred to the state public school fund created in section 22-54-114.

(IV) For the 2025-26 state fiscal year, the first twenty-five million dollars of royalties and other payments for the depletion or extraction of a natural resource on public school lands in excess of the money credited to the state land board trust administration fund, pursuant to section 36-1-145 (3); credited to the public school capital construction assistance fund created in section 22-43.7-104 (1), pursuant to section 22-43.7-104 (2)(b)(I); and credited as specified in subsection (1)(b)(II) of this section must be transferred to the state public school fund created in section 22-54-114. Any amount of royalties and other payments for the depletion or extraction of a natural resource on public school lands in excess of the amounts described in this subsection (1)(c)(IV) must be credited to the public school fund and become part of the principal of the public school fund.

(V) For the 2026-27 state fiscal year, the first forty-five million dollars of royalties and other payments for the depletion or extraction of a natural resource on public school lands in excess of the money credited to the state land board trust administration fund, pursuant to section 36-1-145 (3); credited to the public school capital construction assistance fund created in section 22-43.7-104 (1), pursuant to section 22-43.7-104 (2)(b)(I); and credited as specified in subsection (1)(b)(II) of this section must be transferred to the state public school fund created in section 22-54-114. Any amount of royalties and other payments for the depletion or extraction of a natural resource on public school lands in excess of the amounts described in this subsection (1)(c)(V) must be credited to the public school fund and become part of the principal of the public school fund.

(2) (a) Proceeds received by the state for the sale of timber on lands belonging to any of the state trust funds other than on public school lands, lease payments and rental payments for said lands, rental payments for the use and occupation of the surface of said lands, and rentals or lease payments for sand, gravel, clay, stone, coal, oil, gas, geothermal resources, gold, silver, or other minerals on said lands shall be credited to the proper trust income fund.

(b) Royalties and other payments for the depletion or extraction of a natural resource on said lands shall be credited to the proper permanent trust fund.

(3) This section is subject to the provisions of section 36-1-145.

Source: L. 17: p. 414, § 1. **C.L.** § 1161. **CSA:** C. 134, § 60. **CRS 53:** § 112-3-16. **C.R.S. 1963:** § 112-3-16. **L. 71:** p. 1095, § 1. **L. 74:** (1)(a) and (2)(a) amended, p. 314, § 4, effective May 17. **L. 2000:** (1) amended, p. 1869, § 97, effective August 2. **L. 2005:** (1) amended, p. 536, § 1, effective May 24. **L. 2008:** (1) amended, p. 1067, § 13, effective July 1. **L. 2009:** (1)(a)(II) and (1)(b)(I) amended and (1)(c) added, (SB 09-260), ch. 200, pp. 900, 901, §§ 2, 3, effective May 1; (1)(b)(II) amended, (SB 09-022), ch. 246, p. 1109, § 1, effective May 14; (1)(a)(II) amended, (SB 09-257), ch. 424, p. 2368, § 7, effective June 4. **L. 2010:** (1)(a)(II)(B) and (1)(c) amended, (SB 10-150), ch. 108, pp. 362, 363, §§ 2, 3, effective April 15; (1)(a)(II)(A) amended, (HB 10-1369), ch. 246, p. 1101, § 10, effective May 21. **L. 2011:** (1)(a)(II)(B) and (1)(c) amended, (SB 11-230), ch. 305, p. 1468, §§ 9, 10, effective June 9. **L. 2012:** (1)(a)(II)(B) and (1)(c) amended, (SB 12-145), ch. 202, p. 806, § 2, effective May 24. **L. 2013:** (1)(c)(II) amended, (SB 13-112), ch. 69, p. 224, § 2, effective March 22; (1)(a) and (2)(a) amended, (HB 13-1274), ch. 376, p. 2209, § 2, effective June 5. **L. 2020:** (1)(a)(II)(A) amended and (1)(a)(II)(C) and (1)(c)(III) added, (HB 20-1418), ch. 197, p. 959, § 49, effective June 30. **L. 2023:** (1)(b)(II)(F) added, (SB 23-220), ch. 183, p. 894, § 5, effective May 12. **L. 2026:** (1)(c)(IV) and (1)(c)(V) added, (HB 26-1359), ch. 278, p. 1559, § 2, effective June 1.

Editor's note: (1) Amendments to subsection (1)(a)(II) by Senate Bill 09-260 and Senate Bill 09-257 were harmonized.

(2) Subsection (1)(b)(II)(A) provided for the repeal of subsection (1)(b)(II)(A), effective July 1, 2009. (See L. 2009, p. 1109.)

Cross references: (1) For the public school income fund, as credited to the state public school fund, see § 22-54-114; for the public school fund, see §§ 3 and 5 of art. IX, Colo. Const., and article 41 of title 22; for the permanent school fund, see § 14 of the Enabling Act of the Colo. Const.

(2) For the legislative declaration in the 2011 act amending subsections (1)(a)(II)(B) and (1)(c), see section 1 of chapter 305, Session Laws of Colorado 2011. For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020. For the legislative declaration in SB 23-220, see section 1 of chapter 183, Session Laws of Colorado 2023. For the legislative declaration in HB 26-1359, see section 1 of chapter 278, Session Laws of Colorado 2026.

36-1-117. Leases, rentals payable in advance.

All leases of state or school land shall be conditioned upon the payment of rent in advance, and the violation of this condition shall work a forfeiture of the lease, at the option of the state board of land commissioners, after thirty days' notice to the lessees. Notice shall be sent to the last-known post office address of the lessee, as given by the lessee to the director of the state board of land commissioners.

Source: L. 19: p. 642, § 9. **C.L.** § 1162. **CSA:** C. 134, § 61. **CRS 53:** § 112-3-17. **C.R.S. 1963:** § 112-3-17. **L. 97:** Entire section amended, p. 840, § 13, effective May 21.

36-1-118. Terms of leasing - renewals - sale of leased land.

(1) (a) The public lands of the state may be leased by the state board of land commissioners in such manner and to such persons as will be consistent with article IX of the constitution of the state of Colorado. A lease of lands for grazing or agricultural purposes shall be for a period of ten years unless an alternate term is agreed to by the board and the lessee.

(b) (I) Except as otherwise provided in subparagraph (II) of this paragraph (b), in determining the renewal of any expiring lease, the board shall consider, among other things, the

care and use given the land and the development work done by the lessee in conserving and promoting the productivity thereof and in promoting benefit for the trusts.

(II) In determining the renewal or termination of an expiring agricultural or grazing lease, or the sale or exchange of land for agricultural or grazing purposes, the board shall consider the benefit that continued agricultural and grazing use of the land contributes to the purposes of the respective trusts by the preservation of the stability of the local community, the revenue provided for trust purposes, and the lessee's stewardship of the land.

(c) Before land is leased to anyone other than the present lessee for agricultural or grazing uses, the present lessee shall be given ten days' notice to begin negotiations and ninety days to complete negotiations with the state board of land commissioners concerning a new lease. The board shall not lease land that is being leased for agricultural or grazing uses to anyone other than the present lessee for agricultural or grazing uses unless the board and lessee fail to agree on lease terms, the present lessee does not wish to renew his or her lease, or the present lessee has failed to comply with any provision of the lease. If the land will not continue to be leased for agricultural or grazing purposes, the board shall find that the benefit of continued agricultural and grazing use of the land is outweighed by the benefit that will be provided by the new use and that continued agricultural or grazing use is incompatible with other purposes for which the land is to be leased.

(d) For agricultural or grazing leases expiring on or after July 1, 1998, the board shall provide the lessee with written notice, one year prior to the expiration of such lease, of its intent not to renew the lease for agricultural or grazing uses.

(1.5) In entering into lease agreements for agricultural use of any land of the state, the state board of land commissioners shall include in such leases terms, incentives, and lease rates that will promote sound stewardship and land management practices, long-term agricultural productivity, and community stability.

(2) Prior to the quarter period beginning April 1, 1955, and prior to each quarter period thereafter, the board shall make a listing of all grazing and other agricultural leases which expire within the second succeeding quarter period thereafter, giving a description of the land leased, the name of the lessee, and the expiration date of the lease. At least five days prior to the beginning of each such quarter period, a copy of such listing shall be certified to and transmitted by the board to the county clerk and recorder of each county in which any such land to be leased is situate and shall, by said county clerk and recorder, immediately upon receipt thereof, be posted in the courthouse in a conspicuous place to which the public has access and kept so posted until all leases listed thereon have expired. A copy of such quarterly listing shall also be posted at the times above provided in the main office of the state board of land commissioners, available for public inspection.

(3) (a) All applications to lease or to renew a lease shall be made in writing to the board, stipulating the rental the applicant is willing to pay, and under such other regulations, not in conflict with the law, as the board may prescribe.

(b) The board shall require from any applicant for a lease that he give evidence of his responsibility to carry out the terms of the lease. Any applicant, except the present lessee, shall deposit with his application a sum of money equal to the first annual rental offered in his application.

(c) The board shall also require that an applicant state under oath the total acreage of agricultural or grazing land, if any, owned and to be operated by him in connection with the land to be leased, and the intended use, during the term of the lease, of both such private land, if any, and public land, either as to agricultural products to be produced thereon or as to the carrying capacity of such lands in terms of the number of livestock such tracts are expected to reasonably support; and, if a renewal, a history, for such period of time as prescribed by the board, of the past use of both such private land, if any, and public land, as to agricultural products produced and the number of livestock grazed thereon.

(4) (a) The board may, in its discretion, offer for sale any land leased at any time during the term of the lease as though said lease had not been executed, or it may withdraw such land from sale during the full term of the lease; except that the board may not sell or exchange land subject to a lease for agricultural or grazing purposes during the term of the lease unless the board complies with the requirements of paragraph (d) of subsection (1) of this section and paragraph (b) of this subsection (4). The board shall subject the sale or exchange of land currently leased for agricultural or grazing purposes to the continuation of the terms of the current lease unless the lessee agrees otherwise, the board or third party buys out the lease at a price equal to the current year's lease rate for each year, or fraction thereof, remaining in the lease, or unless subjecting the sale or exchange of such land to the current lease terms would violate article IX of the constitution of the state of Colorado. In any event, the board may cancel or terminate the lease on land subject to the lease up to a total of eighty acres during the term of the lease without payment as long as such cancellation or termination is done in compliance with paragraph (d) of subsection (1) of this section.

(b) If the board determines that all or a portion of land being leased for agricultural or grazing purposes may be offered for sale or nonsimultaneous exchange, and if the agricultural or grazing lessee is in compliance with the provisions of the lease, and if the lessee is in attendance or represented on the day of sale or at the bid opening for nonsimultaneous exchange of the land, the lessee may exercise his or her rights pursuant to this paragraph (b) to match the highest bid received. The lessee shall have the right to offer matching bids until such time as the high bidder refuses to raise the bid or until the lessee decides not to match the bid, whichever first occurs. If the successful bidder fails to comply with the terms of the sale or nonsimultaneous exchange, the next-highest bidder shall be offered the land without further auction process.

(5) The board may cancel and terminate any lease at any time if it finds that a lessee has violated any of the provisions of the lease or made any false statement in the application therefor.

(6) The board shall as soon as practicable, and not more than thirty days after the close of every quarter period, post, in the main office of the board, a complete listing of leases executed during that quarter period, together with rental figures for the same.

(7) The board may cancel and terminate any lease or other use of state lands procured through fraud, deceit, or misrepresentation.

Source: L. 19: p. 643, § 10. **C.L.** § 1163. **CSA:** C. 134, § 62. **L. 45:** p. 523, § 2. **CRS 53:** § 112-3-18. **L. 55:** p. 681, § 1. **C.R.S. 1963:** § 112-3-18. **L. 76:** (2) amended, p. 749, § 1, effective February 20. **L. 97:** (1.5) added, p. 840, § 14, effective May 21; (1), (4), and (5) amended and (7) added, p. 1151, § 1, effective May 28.

ANNOTATION

Annotator's note. Cases relevant to the subject matter of this section which were decided prior to its earliest source have been included in the annotations to this section.

The general assembly has the constitutional authority to regulate the board's activities. Evans v. Simpson, 190 Colo. 426, 547 P.2d 931 (1976).

The board's activities may not contradict or exceed specific statutory limits. Evans v. Simpson, 190 Colo. 426, 547 P.2d 931 (1976).

Lease term providing for cancellation to obtain maximum revenues. The constitution mandates that, unless limited by express statutory regulations, the board shall enter into whatever leases it deems to be most beneficial to the state. It may therefore utilize any lease terms not prohibited by law, such as provision for cancellation to obtain maximum revenues. Evans v. Simpson, 190 Colo. 426, 547 P.2d 931 (1976).

The limitation in the second sentence of this section is a regulation fairly within the power of the general assembly to fix. It was not the intention of the general assembly in adopting the provisos to destroy or impair the force of this second sentence of the section. In re Leasing of State Lands, 18 Colo. 359, 32 P. 986 (1893).

Time limitations do not apply to coal lands. The provisions of this section limiting the time that any lease of state lands shall run and regulating the methods of renewing such leases have no application to the leasing of coal lands. Colo. Fuel & Iron Co. v. Adams, 14 Colo. App. 84, 60 P. 367 (1889).

Forfeiture by lessee in default. A lessee of state lands who is in default in some particular under the terms of his lease will

be held to have forfeited any preference which otherwise should be accorded him as a prior lessee. Wilson v. Collins, 114 Colo. 407, 165 P.2d 663 (1946).

Mandamus will lie to compel collection of sum in default. Where a lessee of state lands is in default for failure to pay over to the state moneys collected by him, as required by the lease, the board of land commissioners is obligated to use all proper means to collect the sum so in default, and a taxpayer is entitled to maintain a suit to compel the performance of such duty. Wilson v. Collins, 114 Colo. 407, 165 P.2d 663 (1946).

36-1-118.3. Immunity from civil liability.

A lessee of public trust lands and the lessee's agents and employees are immune from civil liability for or on account of damages or injuries to any person resulting from the board's allowing access to the leased trust land by the public for recreational or wildlife purposes without the lessee's approval so long as the damages or injuries are not the result of lessee's or lessee's agents or employees willful or wanton conduct or gross negligence. Assent by the lessee to any plan approved by the board that allows access over which the lessee has no control does not constitute approval by the lessee.

Source: L. 97: Entire section added, p. 1153, § 2, effective May 28.

36-1-118.5. Financed purchase of an asset or certificate of participation agreements for commercial real property - state board of land commissioners financed fund - legislative declaration - definition.

(1) The general assembly hereby finds and declares that:

(a) The state board of land commissioners lacks a consistent mechanism to make investments in large, economically viable commercial real property holdings;

(b) The state could operate more efficiently if reasonably priced, well-situated lease space were available;

(c) The state board of land commissioners can generate reasonable and consistent revenues for the state school lands by acquiring commercial real property and leasing space to state agencies and other tenants; and

(d) It is the general assembly's intent that annual payments on financed purchase of an asset or certificate of participation agreements that the state board of land commissioners instructed the state treasurer to enter into pursuant to this section be made solely from the state board of land commissioners financed fund with transfers first from commercial real property revenues,

second from the reserve established in the state board of land commissioners financed fund, and, in the event of any shortfall, from the state board of land commissioners investment and development fund.

(2) (a) Notwithstanding section 24-82-801, the state board of land commissioners may instruct the state treasurer to enter into financed purchase of an asset or certificate of participation agreements on behalf of the state school lands for the acquisition, construction, renovation, and improvement of commercial real property that the board will then offer as lease space for state agencies or other tenants only if:

(I) The state board of land commissioners has reviewed the leased space needs for state agencies with the office of the state architect;

(II) The state board of land commissioners has evaluated the project with the assistance of the office of the state architect and the office of state planning and budgeting against the capitol complex master plan if the project is related to capitol complex leased space needs;

(III) The projected annual rent costs of the state agencies that will be located in the property plus any current rental payment or rental payment projected to be received from other nonstate agency tenants for each fiscal year during the maximum term of the proposed financed purchase of an asset or certificate of participation agreement will exceed the annual financed purchase of an asset or certificate of participation payment for the property;

(IV) A financial plan for the financed purchase of an asset or certificate of participation transaction that includes the items described in subsection (2)(c) of this section has been approved by the office of state planning and budgeting and reviewed and recommended by the capital development committee of the general assembly pursuant to subsection (3) of this section;

(V) The state board of land commissioners approves the terms of the financed purchase of an asset or certificate of participation agreements and any ancillary agreements;

(VI) The state board of land commissioners ensures that the agreements for the financed purchase of an asset or certificate of participation transaction accurately reflect the financial plan approved by the office of state planning and budgeting and the capital development committee; and

(VII) The state controller has approved all agreements pursuant to section 24-30-202, C.R.S.

(b) For purposes of this subsection (2), "annual rent costs" means base rent typically found in the leased space line item in the general appropriation bill plus all operation, maintenance, and related costs paid to a lessor or other third party.

(c) The financial plan must include all necessary parameters of the financed purchase of an asset or certificate of participation agreement, including but not limited to leased-space needs,

subleasing agreements, income, expenses, capital maintenance costs, interest rates, reserve requirements, amortization, expected return on investment, and overall benefit to the permanent school fund as related to the state board's duties enumerated in section 10 of article IX of the state constitution. The financial plan must also include any other financial consideration that the office of state planning and budgeting or the capital development committee might request after their review of the financial plan. The state board may utilize the services of the state's financial advisors in order to prepare the financial plan.

(d) The state board shall adopt a policy that at minimum specifies that leased space is available to a state agency through the application of this section when such a leased space arrangement is mutually beneficial to the state board and the state agency seeking to lease space.

(e) The state treasurer shall issue the financed purchase of an asset or certificate of participation agreements as specified in section 24-36-121.

(3) If the office of state planning and budgeting approves the financial plan, it shall submit the financial plan to the capital development committee of the general assembly. The capital development committee shall review the financial plan and refer its recommendations regarding the financial plan, with written comments, to the state board of land commissioners.

(4) (a) The maximum total amount of annual payments of principal and interest payable by the state during any fiscal year under the terms of all outstanding financed purchase of an asset or certificate of participation agreements entered into by the state treasurer as instructed by the state board pursuant to this section may not exceed the lesser of:

(I) The total amount of annual payments of principal and interest required to be paid per fiscal year on all outstanding financed purchase of an asset or certificate of participation agreements so long as the principal portions of the outstanding financed purchase of an asset or certificate of participation agreements do not exceed fifty million dollars; or

(II) Five million dollars per fiscal year in total annual lease payments of principal and interest required to be paid on all outstanding financed purchase of an asset or certificate of participation agreements.

(b) The term of any financed purchase of an asset or certificate of participation agreement entered into by the state treasurer as instructed by the state board pursuant to this section may not exceed the shorter of the remaining useful life of the building or twenty-five years.

(c) Annual payments on financed purchase of an asset or certificate of participation agreements that the state board of land commissioners instructed the state treasurer to enter into pursuant to this section must be made solely from the state board of land commissioners financed fund with transfers first from the commercial real property operating fund created in section 36-1-153.7, second from the reserve described in subsection (7)(d) of this section, and, in the event

of any shortfall, from the state board of land commissioners investment and development fund created in section 36-1-153.

(5) A financed purchase of an asset or certificate of participation agreement entered into by the state treasurer on behalf of the state board pursuant to this section shall provide that all payment obligations of the state under the agreement are subject to annual appropriation by the general assembly and that obligations are not deemed or construed as creating an indebtedness of the state within the meaning of any provision of the state constitution or the laws of the state concerning or limiting the creation of indebtedness by the state and do not constitute a multiple fiscal year direct or indirect debt or other financial obligation of the state within the meaning of section 20 (4) of article X of the state constitution.

(6) (a) A financed purchase of an asset or certificate of participation agreement entered into by the state treasurer on behalf of the state board pursuant to this section may contain such terms, provisions, and conditions as the state treasurer deems appropriate. The provisions shall allow the board, on behalf of the state school lands, to receive title to the commercial real property that is the subject of the agreement on or prior to the expiration of the entire term of the agreement, including all optional renewal terms. Such financed purchase of an asset or certificate of participation agreement may further provide for the issuance, distribution, and sale of instruments evidencing rights to receive rentals and other payments made and to be made under the agreement. Such instruments shall not be notes, bonds, or any other evidence of indebtedness of the state within the meaning of any provision of the state constitution or the laws of the state concerning or limiting the creation of indebtedness by the state. Interest paid under a financed purchase of an asset or certificate of participation agreement, including interest represented by such instruments, is exempt from Colorado income tax.

(b) A financed purchase of an asset or certificate of participation agreement entered into by the state treasurer on behalf of the state board pursuant to this section may require the state to provide insurance; except that no insurance is authorized that would cause the annual financed purchase of an asset or certificate of participation payment to exceed the annual rent costs of the state agencies prior to the financed purchase of an asset or certificate of participation agreement plus any rent projected to be received from other nonstate agency tenants.

(c) Any provision of the fiscal rules promulgated pursuant to section 24-30-202 (1) and (13) that the state controller deems to be incompatible or inapplicable with respect to a financed purchase of an asset or certificate of participation agreement entered into by the state treasurer on behalf of the state board pursuant to this section or any ancillary agreement may be waived by the state controller or his or her designee.

(d) If a financed purchase of an asset or certificate of participation agreement entered into by the state treasurer on behalf of the state board pursuant to this section is executed, during the term of the financed purchase of an asset or certificate of participation agreement, money that at

the time of the execution is appropriated to a state agency for rental payments shall be transferred to the commercial real property operating fund created in section 36-1-153.7.

(7) (a) The state board of land commissioners financed fund is hereby created in the state treasury. The principal of the fund consists of:

(I) Transfers from the commercial real property operating fund created in section 36-1-153.7 as directed by the state board;

(II) Transfers from the state board of land commissioners investment and development fund created in section 36-1-153 as directed by the state board; and

(III) Other revenues as requested by the state board and approved by the general assembly.

(b) All interest and income earned on the deposit and investment of money in the state board of land commissioners financed fund are credited to the fund and may not be transferred to the general fund or any other fund at the end of any fiscal year. Any uncommitted fund balance at the end of a fiscal year, not including any amount held in reserve as required in subsection (7)(d) of this section, is transferred to the permanent school fund.

(c) Money in the state board of land commissioners financed fund is subject to annual appropriation by the general assembly in the capital section of the annual general appropriation act to make payments required by financed purchase of an asset or certificate of participation agreements entered into pursuant to this section.

(d) For each fiscal year commencing on or after July 1, 2014, a reserve consisting of ten percent of the principal of all outstanding financed purchase of an asset or certificate of participation agreements entered into pursuant to this section must be maintained. The reserve may only be expended upon a specific appropriation by the general assembly to meet any financed purchase of an asset or certificate of participation payments required by financed purchase of an asset or certificate of participation agreements entered into pursuant to this section if there are insufficient revenues to cover the payment. The reserve must be replenished within three years of expenditure.

(e) The state controller shall, in cooperation with the state board and the state treasurer, establish accounts in the state board of land commissioners financed fund as necessary to ensure the proper accounting for all financed purchase of an asset or certificate of participation transactions.

(8) Net revenue from the disposal of the commercial real property originally acquired through a financed purchase of an asset or certificate of participation agreement authorized in this section shall be reinvested in land pursuant to section 36-1-124.5.

(9) (a) Repealed.

(b) The state auditor shall conduct or cause to be conducted a performance audit of the financed purchase of an asset or certificate of participation program authorized by this section. The state auditor shall submit findings, conclusions, and recommendations resulting from the performance audit to the members of the legislative audit committee, the members of the joint budget committee, and the members of the capital development committee, or any successor committees, no later than twelve months after the issuance of the first financed purchase of an asset or certificate of participation agreement.

Source: L. 2013: Entire section added, (HB 13-1274), ch. 376, p. 2210, § 3, effective June 5. **L. 2015:** (2)(a)(I) and (2)(a)(II) amended, (SB 15-270), ch. 296, p. 1221, § 22, effective June 5. **L. 2021:** (1)(d), IP(2)(a), (2)(a)(III), (2)(a)(IV), (2)(a)(V), (2)(a)(VI), (2)(c), (2)(e), (4)(a), (4)(b), (4)(c), (5), (6), IP(7)(a), (7)(b), (7)(c), (7)(d), (7)(e), (8), and (9)(b) amended, (HB 21-1316), ch. 325, p. 2057, § 74, effective July 1.

Editor's note: Subsection (9)(a)(II) provided for the repeal of subsection (9)(a), effective July 1, 2023. (See L.2013, p. 2210.)

36-1-119. Purchase of improvements.

(1) Should anyone lease, purchase, or receive through an exchange any of the lands belonging to the state upon which there are authorized improvements belonging to the lessee, the new owner or new lessee shall pay the former lessee for such authorized improvements. Before a lease shall issue or before title to the land is conveyed or exchanged, the new owner or new lessee shall file in the office of the state board of land commissioners a receipt showing that the value of the improvements, as agreed upon by the parties or established by the state board, has been paid to the owner thereof in full or shall make satisfactory proof that he or she has tendered to such owner the value of the improvements so agreed upon or established by the board.

(2) Should the state board terminate or cancel a lease of state lands upon which there are authorized improvements belonging to the lessee, the board shall pay the value of the authorized improvements established by the board to the lessee subject to available funding for such purpose and subject to the lessee having satisfied all outstanding obligations to the state in relation to the lease, or unless otherwise agreed to by the lessee, or unless the value of the authorized improvements is paid by a third party.

Source: L. 19: p. 643, § 11. **C.L.** § 1164. **CSA:** C. 134, § 63. **CRS 53:** § 112-3-19. **C.R.S. 1963:** § 112-3-19. **L. 75:** Entire section amended, p. 222, § 76, effective July 16. **L. 97:** Entire section amended, p. 1153, § 3, effective May 28.

ANNOTATION

Duty to discover parties and improvements on land. This section makes it the duty of an applicant for a lease to exercise at least some diligence to discover whether another party is upon the land and, if so, what has been done by him in pursuance of his occupancy; and, if improvements have been made by him, the payment or tender to him of the price of the improvements is made a condition precedent to the granting of the lease. Am. Sulphur & Mining Co. v. Brennan, 20 Colo. App. 439, 79 P. 750 (1905) (decided prior to earliest source of this section).

36-1-120. Leases - lands in city limits.

Lands within city boundaries may be leased for a term not exceeding fifty years.

Source: L. 19: p. 644, § 12. **C.L.** § 1165. **CSA:** C. 134, § 64. **CRS 53:** § 112-3-20. **C.R.S. 1963:** § 112-3-20. **L. 97:** Entire section amended, p. 841, § 15, effective May 21.

36-1-120.5. Land subject to development - leases.

(1) The general assembly hereby finds and declares that some of the public lands under the direction, control, and disposition of the state board of land commissioners are within the path of impending development and therefore are of unique economic value to the state for the funding of public schools. The general assembly recognizes that the state board of land commissioners needs flexibility to manage such lands so as to comply with the requirements of sections 9 and 10 of article IX of the state constitution, to prevent undue speculation by others on public lands under the control of the state board of land commissioners, and to protect the public's interest in such lands.

(2) Any lease of public lands under the control of the state board of land commissioners when such land is subject to development shall be in accordance with the provisions of this section. For purposes of this section, "land subject to development" means land which, because of its location or other characteristics, is determined by the state board of land commissioners to be suitable for commercial, industrial, or residential uses.

(3) The lessee of lands subject to development shall meet all federal, state, and local land use regulations, and the terms of a lease shall encourage the lessee to obtain the maximum economic recovery from the development of such lands. Local land use and other applicable local regulations shall not be applied in a discriminatory manner to public lands under the control of the state board of land commissioners.

(4) Any local land use regulation or other local regulation to the contrary notwithstanding, the appropriation and development of water associated with public lands under the control of the state board of land commissioners shall be pursuant solely to applicable laws of the state and the federal government.

(5) In addition to any other payments made by the lessee to the state, the lessee shall pay to all affected governmental entities an amount equal to the amount which would be owed for property taxes if the real property involved were privately owned. This amount shall be based on what the valuation for assessment of the underlying land would be if it were privately owned. These payments in lieu of taxes shall be made at the same time and in the same manner as real property taxes. If a lease commences or ends at other than the beginning of the calendar year, the payment in lieu of taxes shall be prorated for the year involved. Nothing in this section shall affect the authority of government entities to levy and collect property taxes upon privately owned improvements located upon public lands under the control of the state board of land commissioners.

(6) Until the state board of land commissioners leases for development purposes state lands under its control, no land used for agricultural purposes, grazing, forestry, mining, oil and gas production or exploration, or other similar uses shall be considered land subject to development; except that nothing in this subsection (6) shall be construed to limit the authority of the state board of land commissioners to impose conditions upon the lease of public lands under its direction and control, subject to all other requirements of law.

Source: L. 87: Entire section added, p. 1291, § 1, effective May 25. **L. 97:** (1) amended, p. 841, § 16, effective May 21.

36-1-121. Trespass - penalty - bond.

(1) Any corporation, company, or person using or occupying any state or school lands without lease, and any corporation, company, or person who shall use or occupy state or school lands for more than thirty days after the cancellation or expiration of a lease, and any corporation, company, or person who constructs a reservoir, ditch, railroad, public highway, telegraph or telephone line, or in any manner occupies or enters upon lands belonging to the state, without first having secured the authority and permission of the state board of land

commissioners to so occupy the land for such purpose, shall be regarded as a trespasser and commits a civil infraction.

(2) In each case, where a bond has been furnished to the state board of land commissioners, the surety of the lessee shall be equally liable with the lessee, and, in addition to the foregoing penalty, the state shall be allowed to collect as rental for the use of such lands a sum equal to the appraised value thereof for rental purposes, as fixed by the state board of land commissioners. All suits under the provisions of this article shall be instituted under the direction of the attorney general, in the name of the people of the state of Colorado.

Source: L. 19: p. 644, § 13. **C.L.** § 1166. **CSA:** C. 134, § 65. **CRS 53:** § 112-3-21. **C.R.S. 1963:** § 112-3-21. **L. 97:** (2) amended, p. 841, § 17, effective May 21. **L. 2021:** (1) amended, (SB 21-271), ch. 462, p. 3289, § 669, effective March 1, 2022.

ANNOTATION

This section does not exempt the state board of land commissioners from compliance with those provisions of the law governing the rights of all other landlords to dispossess a tenant from the occupancy of real property. Harrah v. People ex rel. Attorney Gen., 125 Colo. 420, 243 P.2d 1035 (1952).

Section strictly construed. Under this section a heavy penalty may be imposed for violation of its provisions, and the section being penal must be strictly construed. Harrah v. People ex rel. Attorney Gen., 125 Colo. 420, 243 P.2d 1035 (1952).

The penalty imposed for the offense by this section cannot be made the measure of damages to be collected by the people in a civil action. Harrah v. People ex rel. Attorney Gen., 125 Colo. 420, 243 P.2d 1035 (1952).

There is no language in this section authorizing or permitting the entry of a judgment for possession of land in an action based upon the section. Harrah v. People ex rel. Attorney Gen., 125 Colo. 420, 243 P.2d 1035 (1952).

36-1-122. Platting and sale in lots and blocks.

The state board of land commissioners may cause any portion of the state or school lands to be laid out in lots and blocks or other tracts by a recorded plat to be sold at public auction or exchanged.

Source: L. 19: p. 646, § 15. **C.L.** § 1168. **CSA:** C. 134, § 67. **L. 49:** p. 533, § 3. **CRS 53:** § 112-3-23. **C.R.S. 1963:** § 112-3-23. **L. 97:** Entire section amended, p. 842, § 18, effective May 21.

36-1-123. Purchase of necessary land by U.S. (Repealed)

Source: L. 19: p. 646, § 16. **C.L.** § 1169. **CSA:** C. 134, § 68. **CRS 53:** § 112-3-24. **C.R.S. 1963:** § 112-3-24. **L. 97:** Entire section repealed, p. 842, § 19, effective May 21.

36-1-123.5. Sale or lease of state lands for federal military real property expansion.

No state lands shall be sold or leased to the United States department of defense or any other unit of federal government if such sale or lease has the purpose or effect of expanding the Piñon Canyon maneuver site.

Source: L. 2009: Entire section added, (HB 09-1317), ch. 381, p. 2073, § 4, effective June 2.

36-1-124. Sale of state lands.

(1) The state board of land commissioners may at any time direct the sale of any state lands, except as provided in this article, in such parcels as the board deems proper. Except as specified in section 36-1-124.3, all sales under this article, except those to the United States, shall be advertised in four consecutive issues of a weekly paper of the county in which the land is situated, if there is a weekly paper in the county, and, if not, then in a paper published in an adjoining county and in other papers as the board may direct.

(2) Except as specified in section 36-1-124.3, the advertisement shall state the time, place, and terms of sale and the minimum price fixed by the state board of land commissioners for each parcel, lot, block, or tract below which no bid shall be received. All patents and certificates of purchase issued before March 31, 1919, are validated. If any land is sold on which authorized improvements have been made by lessees, the improvements shall be appraised under the direction of the board. When lands on which such improvements have been made are sold, the purchasers, if other than the owner of the improvements, shall pay the appraised value of the improvements to the owner thereof, taking a receipt therefor, and such purchaser shall deposit such receipt with the board before such purchaser is entitled to a patent or certificate of purchase. All such receipts shall be filed and preserved in the office of the state board of land commissioners.

(3) After receipt of a notice authorized by section 24-33-107 (2)(a), C.R.S., identifying lands alleged to have a unique economic or environmental value to the public, the state board of land commissioners shall not proceed with the sale of any lands identified in such notice unless such notice is withdrawn pursuant to section 24-33-107 (2)(c), C.R.S., or unless and until authorized by resolution or act of the general assembly or for two years thereafter, whichever first occurs. Thereafter, all the requirements of this article as to manner and terms of sale of state lands shall be deemed to have been met with respect to any sale of state lands made to the department of natural resources pursuant to the provisions of section 24-33-107 and article 1 of title 38, C.R.S.

(4) After any lands are designated as being included as part of the long-term stewardship trust established in section 36-1-107.5, the state board of land commissioners shall not proceed with the sale or exchange of any lands so designated unless such lands are first removed from the trust pursuant to section 36-1-107.5.

Source: L. 19: p. 646, § 17. **C.L.** § 1170. **CSA:** C. 134, § 69. **L. 49:** p. 553, § 4. **CRS 53:** § 112-3-25. **C.R.S. 1963:** § 112-3-25. **L. 65:** p. 921, § 2. **L. 67:** p. 50, § 1. **L. 73:** p. 178, § 3. **L. 97:** (1) and (2) amended and (4) added, p. 842, § 20, effective May 21. **L. 2009:** (1) amended, (SB 09-022), ch. 246, p. 1110, § 2, effective May 14. **L. 2010:** (1) and (2) amended, (HB 10-1165), ch. 124, p. 411, § 1, effective April 15.

Cross references: For additional provisions concerning the sale of state lands, see article 5 of this title.

ANNOTATION

I. General Consideration.

II. Advertisement of Sale.

I. GENERAL CONSIDERATION.

Annotator's note. Cases relevant to the subject matter of this section which were decided prior to its earliest source have been included in the annotations to this section.

Personal presence of board is not required at sale. The correct construction of the powers and duties of the board does not require the personal presence of the board at a sale of public land. Routt v. Greenwood Cem. Land Co., 18 Colo. 132, 31 P. 858 (1902).

Under earlier law, payment by purchaser for improvements was not a condition precedent to completion of sale. An appraisement of the improvements of a lessee upon school land and a deposit of a receipt of the lessee showing payment by the purchaser of the value of the improvements was not a condition precedent to the power of the land board to complete the sale. Such provisions were for the benefit of the lessee,

and did not constitute limitations upon the power of the board. People v. Tynon, 2 Colo. App. 131, 29 P. 809 (1892).

Transfer of property from state board of land commissioners to other public entity in exchange for land of equivalent value is not a "sale" of property under this section. Sorenson v. Reg'l Transp. Dist., 745 P.2d 1047 (Colo. App. 1987).

II. ADVERTISEMENT OF SALE.

Register, under direction of board, may advertise and sell lands. When the board has properly exercised its jurisdiction and done the substantial things that insure a sale for at least a price that, in its judgment, is fair and adequate, then the advertising and making the sale in strict conformity with the regulations prescribed by the general assembly may be done by the register; and the board, by directing him to perform these duties, in no measure surrenders or delegates its trust functions. Routt v. Greenwood Cem. Land Co., 18 Colo. 132, 31 P. 858 (1902).

Where attempted nonsimultaneous exchange of land specified a fixed value for the state property, did not specify a time period for transfer of the private property, and the board issued a patent when the private property had not yet even been identified, the transfer amounted to a sale in violation of both the constitution and the implementing statutes. E. Lake Creek Ranch, LLP v. Brotman, 998 P.2d 46 (Colo. App. 1999), rev'd on other grounds, 31 P.3d 886 (Colo. 2001).

The publication of the notice required by this section is an essential and mandatory requirement. Briggs v. People, 21 Colo. App. 85, 121 P. 127 (1912).

The publication of a notice is not sufficient where omitted from numerous copies of the newspaper. A notice of the sale of public lands which is omitted from numerous copies of the newspaper in which publication was directed and begun is not a compliance with this section, and a sale made upon such publication to one who at the time had notice of the defect must be vacated. Briggs v. People, 21 Colo. App. 85, 121 P. 127 (1912).

The board is not required to designate newspaper for advertising. While it might be the better practice for the board to designate the particular weekly newspaper in which the notice of sale should be published, and to designate other papers as in its discretion it may, there is no statutory provision requiring this to be done. Routt v. Greenwood Cem. Land Co, 18 Colo. 132, 31 P. 858 (1892).

The state is not under duty to make compensation for improvement of public lands, sold without the statutory notice to one who purchased with notice of the defect. Briggs v. People, 21 Colo. App. 85, 121 P. 127 (1912).

Taxpayer has no standing to challenge the management decisions of the state board of land commissioners with regard to school lands. Such decisions have no effect on taxpayers, because the management of school lands has no effect on the state's funding of schools through the taxing power. Brotman v. E. Lake Creek Ranch, LLP, 31 P.3d 886 (Colo. 2001).

36-1-124.3. Acquisition of state trust lands by governmental entities.

(1) The general assembly declares that its intent in enacting this section is to authorize the transfer of interests in land to local governments or special districts in exchange for fair and adequate consideration.

(2) If the state board of land commissioners seeks to dispose of a parcel of land to a local government or special district, the state board shall give public notice of its intent pursuant to subsection (3) of this section. Not less than sixty days after the date of notice, the state board shall meet in public session to hear and receive testimony and evidence concerning the proposed disposal. After giving full consideration to the testimony as well as its legal mandates, the state board shall vote whether to approve the transaction.

(3) For purposes of property disposals under this section, notice shall be published in four consecutive issues of a weekly paper of the county in which such land is situated, in such other papers as the state board of land commissioners may direct, and on the state board's public website. The state board shall directly notify, by email if available, all lessees of the property and all governmental entities within whose boundaries the proposed transaction will take place. The notice shall identify the parcel, the local government or special district to receive the property interest, the purpose and benefit of the disposal, and the time and location of the public hearing.

(4) The state board of land commissioners shall not complete more than two transactions pursuant to this section in a fiscal year. All disposals pursuant to this section shall:

(a) Be based on fair market value as determined by the state board that is consistent with an independent appraisal conforming to the uniform standards of professional appraisal practice standards; and

(b) Identify the purpose of the disposal of property as:

(I) Adding value to adjoining or nearby state trust property;

(II) Complying with valid local land use regulations as required by section 10 of article IX of the state constitution; or

(III) Benefitting state board operations.

(5) Repealed.

Source: L. 2010: Entire section added, (HB 10-1165), ch. 124, p. 412, § 2, effective April 15. **L. 2015:** (5) amended, (HB 15-1212), ch. 174, p. 569, § 1, effective May 11. **L. 2021:** (5) repealed, (SB 21-266), ch. 423, p. 2805, § 33, effective July 2.

36-1-124.5. Nonsimultaneous exchanges of state trust lands - fund.

(1) The state board of land commissioners shall have the authority to undertake nonsimultaneous exchanges of land. For the purposes of section 22-41-101 (2), C.R.S., proceeds of land sold or otherwise disposed as part of a nonsimultaneous transfer pursuant to this section are not part of the designated trust fund until the nonsimultaneous transfer is completed pursuant to subsection (4) of this section.

(2) All revenues derived from the sale or other disposition of state trust land that is designated by the state board of land commissioners as being part of a nonsimultaneous exchange shall be transmitted by the director of the state board of land commissioners to the state treasurer who shall credit the same to a separate account in the nonsimultaneous state trust land exchange cash fund, which fund is hereby created. All interest derived from the deposit and investment of moneys in the fund shall be credited to the appropriate account in the fund. Moneys held in the fund shall not be used for the operating expenses of the board or for expenses incident to the disposition or acquisition of lands. Moneys in the fund are hereby continuously appropriated to the state board of land commissioners for the purposes of this section.

(3) Land that is designated by the state board of land commissioners to be purchased at the completion or partial completion of a designated nonsimultaneous exchange shall be paid for by moneys in the appropriate account in the fund.

(4) Upon a determination by the state board of land commissioners that a nonsimultaneous exchange is completed, but in any event no later than two years after the sale or other disposition of land designated as part of a nonsimultaneous exchange, any moneys remaining in a designated account in the fund shall be credited by the state treasurer to the trust fund maintained by the state treasurer for the proceeds of the trust lands disposed of or sold.

Source: L. 97: Entire section added, p. 843, § 21, effective May 21.

ANNOTATION

Where attempted nonsimultaneous exchange of land specified a fixed value for the state property, did not specify a time period for transfer of the private property, and the board issued a patent when the private property had not yet even been identified, the transfer amounted to a sale in violation of both the constitution and the implementing statutes. E. Lake Creek Ranch, LLP v. Brotman, 998 P.2d 46 (Colo. App. 1999), rev'd on other grounds, 31 P.3d 886 (Colo. 2001).

36-1-125. Reservations of rights on sale.

(1) All sales of state lands shall be held at the state capitol unless otherwise directed by the state board of land commissioners. The state board of land commissioners shall reserve to the state all rights to all minerals, ores, and metals of any kind and character, and all coal, asphaltum, oil, gas, or other like substances in or under such land, and all geothermal resources and the right of ingress and egress for the purpose of mining, together with enough of the surface of the same as may be necessary for the proper and convenient working of such minerals and substances.

(2) All patents and certificates of purchase on state or school lands issued before March 31, 1919, and in which a reservation of rights to minerals, ores, and metals of any kind or character whatsoever, or coal, asphaltum, oil, gas, and other like substances, or geothermal resources has been made are validated. The holders of such certificates of purchase or the owners of said lands so patented shall by contract, deed, or other agreement acknowledge or reconvey to the state the minerals and substances so reserved, and the state board of land commissioners is authorized to accept on behalf of the state such deeds and conveyances and to make such agreements as may be necessary to carry out the provisions of this article.

(3) All patents and certificates of purchase issued before March 31, 1919, describing the lands with reference to legal subdivisions shown by the United States official survey, or by lots, blocks, or tracts shown on a recorded plat, or by metes and bounds descriptions, are validated.

Source: L. 19: p. 647, § 18. **C.L.** § 1171. **CSA:** C. 134, § 70. **L. 49:** p. 554, § 5. **CRS 53:** § 112-3-26. **C.R.S. 1963:** § 112-3-26. **L. 74:** (1) amended, p. 314, § 5, effective May 17. **L. 77:** (1) amended, p. 1622, § 1, effective May 27. **L. 97:** Entire section amended, p. 844, § 22, effective May 21.

Cross references: For additional provisions concerning the sale of state lands, see article 5 of this title.

ANNOTATION

I. General Consideration.

II. Reservation of Mineral Rights.

I. GENERAL CONSIDERATION.

Law reviews. For article, "The Interest of Landowner and Lessee in Oil and Gas in Colorado", see 25 Rocky Mt. L. Rev. 117 (1953). For article, "Severed Minerals as a Deterrent to Land Development", see 51 Den. L.J. 1 (1974).

Annotator's note. Cases relevant to the subject matter of this section which were decided prior to its earliest source have been included in the annotations to this section.

This section is constitutional. This section applies to sales wherein mineral rights were reserved to the state, is without constitutional objection, and is valid. Miller v. Limon Nat'l Bank, 88 Colo. 373, 296 P. 796 (1931).

This section applies to reservations of "rights to minerals", and has no application to reservations affecting the right of the purchaser to exercise exclusive control over the land. Cronk v. Shoup, 70 Colo. 71, 197 P. 756 (1921).

Transfer of property from state board of land commissioners to other public entity in exchange for land of equivalent value is not a "sale" of property under this section. Sorenson v. Reg'l Transp. Dist., 745 P.2d 1047 (Colo. App. 1987).

The first proviso of this section is meaningless and ineffective. Miller v. Limon Nat'l Bank, 88 Colo. 373, 296 P. 796 (1931); Driscoll v. State, 88 Colo. 390, 297 P. 989 (1931).

Proof of decision as to place of sale need not be shown by the record. If it is necessary as a condition precedent that the board should determine that it was within its discretion to hold the sale in a place other than the state capital, the proof of that fact is not required to be shown by the record. People v. G. H. Hard Land Co., 51 Colo. 260, 117 P. 141 (1911).

Where public land has been regularly sold by the state land board, the purchaser is entitled to a patent therefor executed by the proper officials; mandamus is an appropriate remedy in case of a refusal to execute and deliver the patent. Greenwood Cem. Co. v. Routt, 17 Colo. 156, 28 P. 1125 (1892).

II. RESERVATION OF MINERAL RIGHTS.

Former sales of surface rights are now valid. A sale of surface rights in state lands in 1913, subsequently validated by statute, is as valid and binding as if duly authorized by statute when made. Driscoll v. State, 88 Colo. 390, 297 P. 989 (1931).

Formerly there was no authority to reserve minerals. Under a former statute, where the state land board offered for public sale only the surface of certain lands, reserving the mineral, and this reservation was without authority of law, the application of the purchaser for mandamus to compel the conveyance both of the surface, and all below the surface, was denied, upon the ground that the state land board was without authority to sell the mere surface and, therefore, the whole transaction was void. Gunter v. Walpole, 65 Colo. 234, 176 P. 290 (1918).

Title had to be conveyed in fee simple. Under the former statute (R.S. 1908, § 5185) which contained a provision that such patent should convey a good and sufficient title in fee simple, it was held that the board must convey the land in fee, and that there was nothing in the statute either directly or indirectly authorizing the board to encumber lands sold with any easement, exception, or reservation. Walpole v. State Bd. of Land Comm'rs, 62 Colo. 554, 163 P. 848 (1917).

A right to receive a royalty for coal mined on the land sold may be reserved without destroying the fee, but a certificate

of sale containing a provision that "No assignment of the said coal right shall be valid without the consent and approval of the board" conveys title less than the fee and was one the board had no power to grant under the former statute. Cronk v. Shoup, 70 Colo. 71, 197 P. 756 (1921).

Prior to this section, a purchaser of state lands received nothing by a certificate reserving mineral rights in the state. If the validating act granted him any right, it was one he could waive, and when he continued to make payments on certificates of sale of surface rights after the passage of the validating act, and thereafter defaulted in his payments, his contract was subject to cancellation, his payments to forfeiture, and his rights, if any, were waived. Miller v. Limon Nat'l Bank, 88 Colo. 373, 296 P. 796 (1931).

There is no merit to a bill to have reservation adjudged void. Where, prior to this section, a purchaser of state lands bid for only the surface rights, held the certificate of purchase with a clause in it reserving mineral rights, and continued to make payments on such purchase over a period of 13 years, there is no merit in a bill seeking to have the reservation adjudged void and to compel the issuance of a patent without conveyance by the purchaser to the state of the mineral rights so reserved. Driscoll v. State Bd. of Land Comm'rs, 23 F.2d 63 (8th Cir. 1927).

Under earlier law, inclusion in certificate of purchase of reservation to state of mineral rights was a mistake of law, not of fact, and did not invalidate the sale nor entitle the purchaser to recover the purchase price. Bowles v. Miller, 96 Colo. 145, 40 P.2d 243 (1935).

36-1-126. Delinquent payments.

When any purchaser of land defaults for a period of thirty days in any of the payments of either principal or interest due upon the certificate of purchase issued to him, the certificate may be forfeited and the lands reverted to the state upon a notice to that effect mailed to the last-known post-office address of the purchaser, which notice shall allow him thirty days additional in which to pay the indebtedness to the state.

Source: L. 19: p. 648, § 19. **C.L.** § 1172. **CSA:** C. 134, § 71. **CRS 53:** § 112-3-27. **C.R.S. 1963:** § 112-3-27.

36-1-127. Forfeiture - new sale.

If any purchaser of state land, after receiving a certificate of purchase, fails to make any one of the payments stipulated therein, and the same remains unpaid for thirty days after the time when it should have been paid, as specified in the certificate, the state board of land commissioners,

after issuing notice of forfeiture and allowing thirty days additional to pay the indebtedness as provided in section 36-1-126, may sell the land again. In the case of a sale, all previous payments made on account of such land shall be forfeited to the state. The land shall revert to the state and the title thereof shall be in the state as if no sale had ever been made.

Source: L. 19: p. 649, § 20. **C.L.** § 1173. **CSA:** C. 134, § 72. **CRS 53:** § 112-3-28. **C.R.S. 1963:** § 112-3-28. **L. 97:** Entire section amended, p. 845, § 23, effective May 21.

ANNOTATION

This section and § 36-1-128 are written into state land contracts, and a purchaser who takes no action indicating the withdrawal of his assent to a sales contract reserving mineral rights to the state until long after it is validated is bound by the contract. Miller v. Limon Nat'l Bank, 88 Colo. 373, 296 P. 796 (1931).

36-1-128. Place of payment - venue.

All moneys due and payable to the state board of land commissioners shall be paid at the office of the state board of land commissioners in the city and county of Denver, Colorado, and all actions for the recovery of same, or for the cancellation of certificates of purchase, or for the cancellation of leases, or for the recovery of the possession of the land, actions of forcible entry and detainer, or ejectment shall be brought in any court of competent jurisdiction in the city and county of Denver in the state of Colorado.

Source: L. 19: p. 649, § 21. **C.L.** § 1174. **CSA:** C. 134, § 73. **CRS 53:** § 112-3-29. **C.R.S. 1963:** § 112-3-29. **L. 97:** Entire section amended, p. 845, § 24, effective May 21.

ANNOTATION

Judgment for possession of state lands improper when brought under this section and § 36-1-121 alleging trespass on the same. Harrah v. People ex rel. Attorney Gen., 125 Colo. 420, 243 P.2d 1035 (1952).

This section does not conflict with the Colorado rules of civil procedure requiring all actions affecting property to be tried in the county in which the subject of the action or a substantial part thereof is situated. Dallas v. Fitzsimmons, 137 Colo. 196, 323 P.2d 274 (1958).

Although this section expressly provides for ejectments, this can refer only to ejectment actions brought by the board and obviously is for the convenience of the state so that its officers and employees will not have to disrupt state business and spend time attending trials away from the seat of government. Dallas v. Fitzsimmons, 137 Colo. 195, 323 P.2d 274 (1958).

This section has no application to an action in ejectment by a lessee of the state against third parties. Dallas v. Fitzsimmons, 137 Colo. 196, 323 P.2d 274 (1958).

This section was inapplicable in an action brought against state board of land commissioners. Bd. of Land Comm'rs v. District Court, 191 Colo. 185, 551 P.2d 700 (1976).

36-1-129. Bonds.

(1) When, in the judgment of the state board of land commissioners, a bond, a damage deposit, or earnest moneys by the purchaser of state lands is necessary, the board shall require the purchaser to give the financial warranty upon such conditions as the board may determine.

(2) (a) In leasing state lands for nonagricultural purposes, the state board of land commissioners shall require of the lessee a bond or damage deposit securing the state against loss of rents or other loss or waste, or occupation of the land for more than thirty days after the cancellation or expiration of the lease of the lessee, unless the lessee becomes the purchaser of the land, and the state board of land commissioners shall retain all interest earned on such a bond or damage deposit while held by the state board of land commissioners. In no case shall the lessee be allowed to cut or use more timber than is necessary for the improvement of the land or for fuel for the use of the family of the lessee; and the cutting and hauling of timber to sawmills, to be sawed on shares, is expressly prohibited.

(b) A lessee of state lands shall not be required to post a bond if such lessee is leasing state lands solely for agricultural purposes; except that a bond or damage deposit may be required for state-owned improvements even if leased solely for agricultural purposes.

(3) All bonds, damage deposits, and earnest moneys collected pursuant to this article that the state board of land commissioners has deemed forfeited or required for remediation activities shall be credited to the financial warranty account of the state land board trust administration fund created in section 36-1-145 (2)(e). Moneys in the account, including interest earned on the forfeited bonds, damage deposits, and earnest moneys deposited in the account, are continuously appropriated for the remediation or other activities on the affected property.

Source: L. 19: p. 649, § 22. **C.L.** § 1175. **CSA:** C. 134, § 74. **CRS 53:** § 112-3-30. **C.R.S. 1963:** § 112-3-30. **L. 94:** Entire section amended, p. 1682, § 1, effective May 31. **L. 2010:** Entire

section amended, (HB 10-1165), ch. 124, p. 412, § 3, effective April 15. **L. 2013:** (2)(a) and (3) amended, (HB 13-1274), ch. 376, p. 2214, § 4, effective June 5.

ANNOTATION

Annotator's note. A case relevant to the subject matter of this section which was decided prior to its earliest source has been included in the annotations to this section.

The bond is to protect the state against damages resulting from retention of the premises by the purchaser after failure to make payments and the commission of such waste upon the land as to destroy or impair its value. People v. Clough, 16 Colo. App. 120, 63 P. 1066 (1901).

Certificate of purchase may be made a part of bond. A condition in a bond given by the purchaser of state land whereby he obligates himself to comply with all the terms of the certificate of purchase makes such certificate, with its terms and conditions, a part of the bond. People v. Clough, 16 Colo. App. 120, 63 P. 1066 (1901).

Where bond is in the alternative to either pay or vacate, plaintiff in an action on the bond to recover the purchase price must prove failure to perform both conditions. People v. Clough, 16 Colo. App. 120, 63 P. 1066 (1901).

Where purchaser has option to pay or vacate, the latter requires only a surrender of actual possession. People v. Clough, 16 Colo. App. 120, 63 P. 1066 (1901).

36-1-130. Lost certificate of purchase. (Repealed)

Source: L. 19: p. 650, § 23. **C.L.** § 1176. **CSA:** C. 134, § 75. **CRS 53:** § 112-3-31. **C.R.S. 1963:** § 112-3-31. **L. 97:** Entire section repealed, p. 845, § 25, effective May 21.

36-1-131. State land board hearings - rules.

(1) The state board of land commissioners may hear and determine the claims of all persons who claim a legal interest in the land or trust administered by the state board of land commissioners and who are aggrieved by an action of the board. The state board of land commissioners may appoint one or more of its members, the director, a hearing officer, or other appointee to render an initial decision on any matter before the board. Such decision may be appealed to the board. Any hearing or appeal shall be conducted in accordance with the provisions of article 4 of title 24, C.R.S.

(2) The board may promulgate such rules as in its opinion may be proper to accomplish any of its duties and powers.

Source: L. 19: p. 650, § 24. **C.L.** § 1177. **CSA:** C. 134, § 76. **CRS 53:** § 112-3-32. **C.R.S. 1963:** § 112-3-32. **L. 97:** Entire section amended, p. 845, § 26, effective May 21.

ANNOTATION

Applied in Evans v. Simpson, 190 Colo. 426, 547 P.2d 931 (1976); Utah Int'l, Inc. v. Bd. of Land Comm'rs, 41 Colo. App. 72, 579 P.2d 96 (1978).

36-1-132. Lands sold subject to taxation.

All lands sold under the provisions of this article or any interest therein shall be subject to taxation, and the director of the state board of land commissioners shall furnish to the county assessor of each county on May 1 of each year a list of the equities owned or acquired in all lands so sold, to whom sold, the price per acre, and the amount paid. Each county shall pay the expense incurred in compiling such list.

Source: L. 19: p. 650, § 25. **C.L.** § 1178. **CSA:** C. 134, § 77. **CRS 53:** § 112-3-33. **C.R.S. 1963:** § 112-3-33. **L. 97:** Entire section amended, p. 846, § 27, effective May 21.

ANNOTATION

For former statutory provision exempting such lands from taxation while title remained vested in the state, see Colo. Farm & Live Stock Co. v. Beerbohm, 43 Colo. 464, 96 P. 443 (1908); Gale v. Beerbohm, 43 Colo. 521, 96 P. 449 (1908).

36-1-133. Rebate of taxes on reverted land.

In case any lands sold under the provisions of this article are reverted to the state for any cause whatsoever, the director of the state board of land commissioners shall at once notify the county treasurer of the county in which the land is situated, and upon receipt of such notice it is the duty of the county treasurer to at once rebate all taxes that have been charged against the lands so reverted.

Source: L. 19: p. 650, § 26. **C.L.** § 1179. **CSA:** C. 134, § 78. **CRS 53:** § 112-3-34. **C.R.S. 1963:** § 112-3-34. **L. 97:** Entire section amended, p. 846, § 28, effective May 21.

ANNOTATION

The notice prerequisites were intended to prevent the payment of taxes upon land by successors and assigns, mediate or immediate, of the grantee, who had acquired fee simple title to the parcel, and to notify the grantee itself in order to forestall conveyance by the grantee to others. State v. Franc, 165 Colo. 69, 437 P.2d 48 (1968).

36-1-134. Proceeds of sale - funds.

The funds arising from the sale of public school, university, and agricultural college lands shall be held intact for the benefit of the funds for which such lands were granted and shall be known as permanent funds, and the interest and rentals only shall be expended for the purpose of the grant. The funds arising from the sale, leasing, and income of all other state lands shall be disposed of as provided by law but, in the absence of any other provisions, may be invested in the same manner as the school fund.

Source: L. 19: p. 650, § 27. **C.L.** § 1180. **CSA:** C. 134, § 79. **CRS 53:** § 112-3-35. **C.R.S. 1963:** § 112-3-35.

ANNOTATION

Applied in In re Salaries of Comm'rs & Employees of State Land Bd., 55 Colo. 105, 133 P. 140 (1913).

36-1-135. Proceeds of leases - disposition.

All moneys arising from the leasing of agricultural college, university, or public school lands which, on or after March 31, 1919, are received by the state treasurer shall be treated in all respects in the same manner as is provided by law for the disposition of the interest on the proceeds arising from the sale of the same class of lands.

Source: L. 19: p. 651, § 28. **C.L.** § 1181. **CSA:** C. 134, § 80. **CRS 53:** § 112-3-36. **C.R.S. 1963:** § 112-3-36.

ANNOTATION

Applied in In re Salaries of Comm'rs & Employees of State Land Bd., 55 Colo. 105, 133 P. 140 (1913).

36-1-136. Rights-of-way granted - reversion.

The state board of land commissioners may grant rights-of-way across or upon any portion of state land for any ditch, reservoir, railroad, communication system, electric power line, pipeline, or other installation necessary for the operation of said services or utilities and may grant rights-of-way on any tracts of state land to any person, public agency or instrumentality of the United States, or to this state, or to any of the institutions, agencies, counties, municipalities, districts, or other political subdivisions of this state for the purpose of building schoolhouses or public roads or highways or for any lawful use or purpose. Any right-of-way so granted shall be on such terms as the board shall determine and shall be subject to the filing fee specified in section 36-1-112. Said board may execute and sign, as provided by this article, on behalf of this state, an instrument in writing for such right-of-way or grant. This section shall not be construed to grant authority to said board to convey title to any such land by a grant of right-of-way. Whenever rights-of-way granted for any purposes mentioned in this section cease to be used for such purposes, the rights-of-way shall terminate, and all rights shall revert to this state or its successors in interest.

Source: L. 19: p. 651, § 29. **C.L.** § 1182. **CSA:** C. 134, § 81. **L. 47:** p. 690, § 1. **CRS 53:** § 112-3-37. **C.R.S. 1963:** § 112-3-37. **L. 69:** p. 924, § 1. **L. 73:** p. 1140, § 1. **L. 77:** Entire section amended, p. 1620, § 2, effective May 26. **L. 97:** Entire section amended, p. 846, § 29, effective May 21. **L. 98:** Entire section amended, p. 828, § 50, effective August 5.

ANNOTATION

Adverse possession established. Where the right-of-way deed contains language which creates a possibility of reverter, upon termination of the use, the estate of the grantees and those claiming through them would ordinarily be terminated. However, the right of the land board to reacquire the property is subject to statutory conditions which must be complied with by the state. Thus, where plaintiffs establish prima facie color of title by successive grants which are free of condition, are in possession adverse to the state for over 20 years, and are in possession and pay taxes under color of title

for over 7 years, they are entitled to a decree against the state. State v. Franc, 165 Colo. 69, 437 P.2d 48 (1968) (decided under law in effect prior to the repeal and reenactment of this section in 1969).

Patents granting easement held to create exception to granting of fee title to certain area of land; patent reserved to the state the underlying fee interest, and upon abandonment of easement, land reverted to the state. Lincoln Sav. & Loan Ass'n v. State, 768 P.2d 733 (Colo. App. 1988).

36-1-137. Sale of lands to procure irrigation.

(1) and (2) Repealed.

(3) If any person, other than the person making application for the purchase of the lands, is the highest bidder at the public sale thereof, such bidder shall, within such reasonable time as the board may fix, enter into a contract and bond, as required by the provisions of this article, for the construction of the ditch and for the furnishing of water therefrom; and, in the event of his failure to furnish a satisfactory bond and enter into the said contract within the time fixed, then such bid shall be disregarded, and such public sale shall be void and of no effect. The board shall make the sale upon like conditions as other state lands are sold, and shall require a good and sufficient bond from the party desiring to construct such ditch, conditioned upon the faithful performance of the contract, and the conditions of the sale, and in no case shall the title to any of said lands pass from the state until the ditch has been completed and accepted by the board.

Source: L. 19: p. 651, § 30. **C.L.** § 1183. **CSA:** C. 134, § 82. **CRS 53:** § 112-3-38. **C.R.S. 1963:** § 112-3-38. **L. 97:** (1) and (2) repealed, p. 846, § 30, effective May 21.

36-1-138. Mineral section - personnel - duties.

(1) (a) The state board of land commissioners is authorized to establish, under the jurisdiction of the director of the state board of land commissioners, a mineral section and appoint a minerals director with experience in mineral resources production, management, development, or reclamation. It is the duty of the minerals director or such director's designee or contractor to inspect all works operated under leases from the state for the production of mineral resources upon which rentals are due to the state upon a basis of a royalty upon the production therefrom, as often from time to time as the minerals director shall deem it necessary for the purpose of estimating and checking royalties therefrom, and keep such maps or other information of the workings of all such operations as will give the minerals section full information concerning the same.

(b) In the event the minerals director utilizes a contractor to conduct such investigation, the compensation to such contractor shall not be based on the number or amount of audit findings referred to the director for action.

(2) Lessees of all mineral resources lands shall be required to furnish the minerals director with copies or blueprints of all maps of underground surveys of leased land, made or authorized by such lessee, including engineer's field notes, certified to by the engineer who made the survey. The minerals director or such director's designee or contractor shall review activities related to mineral resources leases. The minerals director shall also check the royalties reported as due under such lease for the preceding month and compare the same with the surveys and other inspections made by the minerals director and shall report the result of such examination and checking to the director of the state board of land commissioners. Every mine and oil and gas operation and other works upon the lands managed by the state board of land commissioners held under lease therefrom by any person, association, partnership, or corporation shall be at all times subject to the inspection of the minerals director or such director's designee or contractor. The minerals director or the director's designee or contractor shall inspect and examine all lands held under lease from the state, providing for the payment of royalties from the production therefrom, and report to the director of the state board of land commissioners the condition of said lands and the amount of work and development done thereon by such lessees and make such recommendations relative thereto as the minerals director may deem advisable. The minerals director or such director's designee or contractor shall upon ten days notice have access during normal business hours to records and books necessary to determine the royalty due from the production and disposition of all substances produced from state trust lands, which record or book is in the possession or under the control of the lessee or the lessee's assign. If after reasonable effort the minerals director or such director's designee or contractor is unable to obtain sufficient information from the lessee or assign to determine the royalty due, the director or designee or contractor may petition the state board of land commissioners for an order which upon notice and hearing shall grant access to information, records, and books pertaining to royalties that are in the possession or under the control of any entity that purchases, distributes, processes, or transports the substance produced from the state trust land. Except as is necessary to determine and report to the board royalties due to the board, all information acquired by the director or director's designee or contractor under this subsection (2) shall be protected as confidential information and shall not be a matter of public record in the absence of a written release from the entity from which the information was obtained or until otherwise ordered by a court.

Source: L. 19: p. 653, § 31. **C.L.** § 1184. **CSA:** C. 134, § 83. **CRS 53:** § 112-3-39. **C.R.S. 1963:** § 112-3-39. **L. 97:** Entire section amended, p. 847, § 31, effective May 21.

Cross references: For inquiries by the director of the division of labor into relations existing between lessees of state lands and the state, see § 8-1-122.

36-1-139. Royalties on coal - ton defined. (Repealed)

Source: L. 19: p. 654, § 32. **L. 21:** p. 739, § 1. **C.L.** § 1185. **L. 25:** p. 468, § 1. **CSA:** C. 134, § 84. **L. 53:** p. 454, § 1. **CRS 53:** § 112-3-40. **C.R.S. 1963:** § 112-3-40. **L. 97:** Entire section repealed, p. 848, § 32, effective May 21.

36-1-140. Mineral locations - posting - lease.

Location of mineral claims, other than claims for coal and oil shale, may be made upon unleased mineral lands belonging to the state. The discoverer of a body of mineral in either a lead, lode, ledge, deposit, vein, or contact shall immediately post conspicuously a notice declaring that he has made such a discovery on the date attached to the notice. Within ten days after posting said notice, the discoverer must notify the state board of land commissioners of said discovery and arrange for a permit to explore the extent of the discovery. Within sixty days from date of discovery, the locator shall be required to take a lease upon such terms as may be agreed upon by the state board of land commissioners or apply for an extension of the permit.

Source: L. 19: p. 655, § 33. **C.L.** § 1186. **CSA:** C. 134, § 85. **CRS 53:** § 112-3-41. **L. 55:** p. 684, § 1. **C.R.S. 1963:** § 112-3-41. **L. 80:** Entire section amended, p. 694, § 1, effective April 13.

Cross references: For lode claims, see article 43 of title 34.

ANNOTATION

Law reviews. For article, "Highlights of the 1955 Colorado Legislative Session — Mining", see 28 Rocky Mt. L. Rev. 56 (1955). For comment on Dallas v. Fitzsimmons (cited below), see 35 Dicta 208 (1958).

Mineral location statutes should, as between conflicting claimants to mineral lands, be liberally construed so as to protect bona fide locators, with due regard for a fair application of the statutory requirements. Dallas v. Fitzsimmons, 137 Colo. 196, 323 P.2d 274 (1958).

Until the secretary of the interior makes the discretionary decision to classify lands selected by the state as

indemnity land in lieu of designated school lands, the state has only an incipient prospect of future ownership of the selected lands, and these properties cannot be considered lands belonging to the state. Occidental Oil Shale v. St. Bd. of Land Comm'rs, 692 P.2d 321 (Colo. 1984).

This section cannot retroactively affect prior vested rights. Dallas v. Fitzsimmons, 137 Colo. 196, 323 P.2d 274 (1958).

The leasing powers of the board under § 36-1-113 are subject to the implied limitation that it cannot lease state land already properly in the physical possession of others under the mining laws. Dallas v. Fitzsimmons, 137 Colo. 196, 323 P.2d 274 (1958).

Where mineral lode locations are made on state lands in compliance with the state laws relating to discovery, posting, notice, and other applicable provisions, such claims take priority over a subsequent mineral lease issued by a duly authorized state leasing agency. Dallas v. Fitzsimmons, 137 Colo. 196, 323 P.2d 274 (1958).

Mineral, in the statutory discovery sense, means valuable rock in place subject of definable boundaries. Dallas v. Fitzsimmons, 137 Colo. 196, 323 P.2d 274 (1958).

The finding of the mineral in the rock in place, as distinguished from float rock, constitutes a discovery, and warrants a prospector in making a location of a mining claim. Dallas v. Fitzsimmons, 137 Colo. 196, 323 P.2d 274 (1958).

Discovery is a question of fact. Whether a vein or lode has been discovered or exists within the limits of a location and whether continuity of ore and mineral matter constituting the length, width, and extent of a particular vein or lode is sufficiently shown is always a question of fact to be determined by a court or jury. Dallas v. Fitzsimmons, 137 Colo. 196, 323 P.2d 274 (1958).

Radiometric evidence coupled with other evidence may constitute discovery. Although technical prospecting methods, such as the use of counters and scintillators, are only exploration tools and not complete exploration and discovery systems, radiometric results coupled with other evidence, such as the assay and type of rock in place, show an overall fair compliance with the statute requiring discovery. Dallas v. Fitzsimmons, 137 Colo. 196, 323 P.2d 274 (1958).

Discovery must be within the limits of the claim located. K.C.R. Res. v. State Bd. of Land Comm'rs, 691 P.2d 330 (Colo. 1984) (decided under law in effect prior to 1980 amendment).

Discovery may be shown to extend to adjacent claimed locations. Where competent radiometric reactions, supported by chemical assays as to part of the claimed locations, clearly show the presence of uranium on adjacent claimed locations, showing the same or similar radiometric readings, the latter are valid discoveries under the statute as much so as are outcrops visible to the naked eye. Dallas v. Fitzsimmons, 137 Colo. 196, 323 P.2d 274 (1958).

36-1-141. Exchange of lands with government.

The state board of land commissioners is authorized to exchange any lands, the income from which is devoted to the public schools of the state, the state universities, the state agricultural college, penitentiary, internal improvements, or saline or any other lands which may be under the control of the state board of land commissioners and which may have been granted to the state by the congress of the United States, for such unappropriated federal lands in the state as the state board of land commissioners may select. The director of said board is empowered to sign all papers necessary to such transfer, under the direction of the board.

Source: L. 19: p. 655, § 34. **C.L.** § 1187. **CSA:** C. 134, § 86. **CRS 53:** § 112-3-42. **C.R.S. 1963:** § 112-3-42. **L. 97:** Entire section amended, p. 849, § 33, effective May 21.

36-1-142. Receipts from agricultural lands.

The state board of land commissioners is required to transmit or cause to be transmitted to the secretary of the board of governors of the Colorado state university system, as the same are received, statements showing each item of receipt of money from all leases or sales and royalties, or as interest on purchase money passing through its hands, derived from agricultural college land grant land, which statement shall name and describe the lands to which the money paid applies, from whom and for what received, and whether the item is credited to land income or permanent fund.

Source: L. 15: p. 389, § 1. **C.L.** § 1188. **CSA:** C. 134, § 87. **CRS 53:** § 112-3-43. **C.R.S. 1963:** § 112-3-43. **L. 2002:** Entire section amended, p. 1248, § 25, effective August 7.

36-1-143. Statement to board of governors of the Colorado state university system.

(1) On or before the second Wednesday in December of every year, the state board of land commissioners shall furnish to the board of governors of the Colorado state university system a complete statement of all transactions had by it in connection with agricultural college lands, which statement shall show:

(a) Amounts received from sales of such lands, describing the lands sold and the price received for each tract and giving the name of the purchaser;

(b) Amounts received from leases and royalties, describing the lands leased from which such income is derived and giving the name of the lessee or operator;

(c) Amounts received as interest on purchase money and other items, giving the name of the payer;

(d) Amounts due and unpaid on purchases and leases and other delinquencies, if any;

(e) Such other items as will enable said board of governors of the Colorado state university system to keep informed as to the condition of said lands, the income therefrom, and the manner in which the same are being administered.

Source: L. 15: p. 389, § 2. **C.L.** § 1189. **CSA:** C. 134, § 88. **CRS 53:** § 112-3-44. **C.R.S. 1963:** § 112-3-44. **L. 2002:** (1) amended, p. 1248, § 26, effective August 7.

36-1-144. Agreements with general agencies.

The state board of land commissioners is authorized to enter into cooperative agreements on behalf of the state with any federal agency for the improvement and betterment of state owned lands and to furnish necessary materials and tools in connection therewith.

Source: L. 37: p. 941, § 1. **CSA:** C. 134, § 88(1). **CRS 53:** § 112-3-45. **C.R.S. 1963:** § 112-3-45.

36-1-145. Land commissioners' receipts - appropriation.

(1) All moneys collected by the state board of land commissioners shall be deposited with the state treasurer. Moneys received by the state board of land commissioners for fees and services shall be credited by the state treasurer to the state board of land commissioners land and water management fund created in section 36-1-148. All other moneys deposited by the state board of land commissioners shall be credited by the state treasurer to the proper funds as provided by law.

(2) (a) The state land board trust administration fund is hereby created in the state treasury for the purposes specified in paragraph (b) of this subsection (2).

(b) The general assembly shall annually appropriate moneys from the state land board trust administration fund sufficient to pay for the salaries of employees of the state board of land commissioners and expenses and per diem allowances of commissioners and all other expenses incurred in administering the provisions of articles 1 to 7 of this title and sections 9 and 10 of

article IX of the Colorado constitution. Each land grant administered by the state board of land commissioners shall be charged with the expense of its administration.

(c) Any moneys remaining in the state land board trust administration fund at the end of the state fiscal year shall be allocated to the trust funds under the control of the state board of land commissioners in an amount equal to the proportion of such moneys that would have been paid into such trust funds but for their allocation to the state land board trust administration fund; except that moneys in the financial warranty account of the fund created in paragraph (e) of this subsection (2) shall remain in the account until spent.

(d) (Deleted by amendment, L. 97, p. 850, § 34, effective May 21, 1997.)

(e) There is hereby created in the state land board trust administration fund the financial warranty account, consisting of financial warranties credited to the account pursuant to section 36-1-129 (3). The board shall expend moneys in the account only for purposes specified in section 36-1-129 (3).

(3) The general assembly shall allocate moneys to the state land board trust administration fund from the income generated by the state trust lands. The allocations to the fund and the appropriations to the state board of land commissioners shall be sufficient to enable the state board of land commissioners to perform its duties.

Source: L. 57: pp. 592, 593, §§ 1, 2. **CRS 53:** § 112-3-46. **C.R.S. 1963:** § 112-3-46. **L. 71:** p. 1096, § 1. **L. 79:** (1) amended, p. 1346, § 2, effective July 1. **L. 83:** (2) R&RE, p. 1380, § 1, effective July 1. **L. 85:** (2)(a) and (2)(d) amended, p. 1143, § 1, effective June 6. **L. 89:** (2)(c) and (2)(d) amended, p. 1415, § 1, effective April 6. **L. 92:** (1) amended, p. 1910, § 2, effective March 4. **L. 95:** (2)(a) and (2)(d) amended, p. 456, § 1, effective May 16. **L. 97:** Entire section amended, p. 850, § 34, effective May 21. **L. 2007:** (2)(b) amended, p. 2048, § 93, effective June 1. **L. 2010:** (2)(c) amended and (2)(e) added, (HB 10-1165), ch. 124, p. 413, § 4, effective April 15.

36-1-146. Acquisition of right-of-way. (Repealed)

Source: L. 63: p. 750, § 1. **C.R.S. 1963:** § 112-3-47. **L. 97:** Entire section repealed, p. 851, § 35, effective May 21.

36-1-147. Geothermal leases.

(1) The state board of land commissioners may lease any portion of the land of the state, or any interest therein, for the purposes of exploring for, producing, and developing the geothermal resources thereunder at a rental to be determined by the board, except as provided in sections 36-1-113, 36-1-118, and 36-1-147.5.

(2) The geothermal leasing arrangements authorized by subsection (1) of this section shall include provision for:

(a) The filing of a surety bond to assure compliance with the lease terms and the requirements of article 90.5 of title 37, C.R.S.;

(b) Royalties on both the geothermal resource and its by-product;

(c) The protection of the environment, including but not necessarily limited to the air quality, the ground and surface water quality, and the land surface, as well as the rest of the environment.

(3) The geothermal leasing arrangements authorized by subsection (1) of this section are to be administered by the state board of land commissioners in a manner which encourages the maximum economic recovery of geothermal resources, prevents waste of said resources, and protects the public interest in the lands of the state by requiring the exploration for the development and protection of geothermal resources to proceed in an environmentally acceptable manner.

(4) All existing leases on state lands for the development of geothermal resources are hereby validated as though they had been issued pursuant to the authority of this article.

Source: L. 74: Entire section added, p. 315, § 6, effective May 17. **L. 83:** (2)(a) amended, p. 1424, § 4, effective June 10. **L. 2007:** (1) amended, p. 620, § 2, effective August 3.

36-1-147.5. Leasing arrangements for renewable energy resources development - legislative declaration - definitions.

(1) The general assembly hereby finds and declares that some of the public lands under the direction, control, and disposition of the state board of land commissioners are viable for development of renewable energy resources and therefore are of unique economic value to the state for the funding of public schools.

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

(a) "Biomass" means:

(I) Nontoxic plant matter consisting of agricultural crops or their by-products, urban wood waste, mill residue, slash, or brush;

(II) Animal wastes and products of animal wastes; or

(III) Methane produced at landfills or as a by-product of the treatment of wastewater residuals.

(b) "Renewable energy resources" means energy derived from solar, wind, geothermal, biomass, and hydroelectricity. A fuel cell using hydrogen derived from these eligible resources is also an eligible electric generation technology. Fossil and nuclear fuels and their derivatives are not eligible resources.

(3) (a) The state board of land commissioners shall examine property currently under the direction, control, and disposition of the board to identify land suitable and appropriate for development of renewable energy resources. In identifying such property, the board shall collaborate with the national renewable energy laboratory, university of Colorado, Colorado state university, and Colorado school of mines. The board shall also work with federal land management agencies to pursue any state and federal collaboration for the development of renewable energy resources.

(b) and (c) Repealed.

(4) The state board of land commissioners shall collaborate with the Colorado energy office created in section 24-38.5-101, C.R.S., to ensure that potential renewable energy resource developers are aware of any lands identified by the board as being suitable for development of renewable energy resources.

(5) The state board of land commissioners may lease any portion of the land of the state, or any interest therein, for the purposes of developing renewable energy resources at a rental to be determined by the board, except as provided in sections 36-1-113, 36-1-118, and 36-1-147.

(6) The leasing arrangements for renewable energy resources development authorized by subsection (5) of this section shall include provisions for:

(a) Royalties on the energy produced through the renewable energy resources; and

(b) The protection of the environment, including but not limited to wildlife habitat, air quality, ground and surface water quality, and land surface.

(7) All existing leases on state lands for the development of renewable energy resources are hereby validated as though they had been issued pursuant to the authority of this section.

Source: L. 2007: Entire section added and (3) amended, pp. 621, 622, §§ 3, 4, effective August 3. **L. 2008:** (4) amended, p. 72, § 12, effective March 18. **L. 2010:** (3)(c) added, (HB 10-

1349), ch. 387, p. 1816, § 3, effective June 8. **L. 2012:** (4) amended, (HB 12-1315), ch. 224, p. 976, § 41, effective July 1. **L. 2013:** (3)(a) amended, (HB 13-1300), ch. 316, p. 1699, § 112, effective August 7.

Editor's note: (1) Subsection (3)(b)(II) provided for the repeal of subsection (3)(b), effective December 1, 2007. (See L. 2007, p. 622.)

(2) Subsection (3)(c)(II) provided for the repeal of subsection (3)(c), effective July 1, 2011. (See L. 2010, p. 1816.)

36-1-148. Land and water management fund.

(1) There is hereby created the state board of land commissioners land and water management fund. Such fund is to be generated from fees collected under the provisions of section 36-1-112. The fund is to be under the control of and to be administered by the state board of land commissioners. The fund is to be used only for the management and the improvement of state-owned lands and waters under the control of the state board of land commissioners. Each such improvement or management program is to be for the purpose of complying with the provisions of sections 9 and 10 of article IX of the state constitution; except that, for each such improvement made to state-owned lands utilized for agricultural purposes, the lessee shall contribute no less than twenty percent of the cost of such improvement, by written agreement with the state board of land commissioners.

(2) The state treasurer shall establish such fund from fees submitted pursuant to section 36-1-112. All such fees submitted shall be credited to such fund. Expenditures from such fund shall not exceed seventy-five thousand dollars in any fiscal year. Any balance in said fund at the close of a fiscal year in excess of seventy-five thousand dollars shall revert to the general fund, and the board shall reduce its fees accordingly.

(3) The controller shall authorize disbursements from said fund as directed by the state board of land commissioners on receipt of a voucher from said commissioners stating that the disbursement is to accomplish a purpose set forth in subsection (1) of this section.

(4) and (5) Repealed.

Source: L. 79: Entire section added, p. 1347, § 3, effective July 1; (5) added by revision, p. 1347, §§ 4, 5. **L. 83:** (4) amended, p. 844, § 76, effective July 1. **L. 85:** Entire section RC&RE, p. 1145, § 1, effective May 3. **L. 89:** (5) amended, p. 1415, § 2, effective April 6. **L. 92:** (2) amended, p. 1911, § 3, effective March 4. **L. 95:** (5) repealed, p. 457, § 2, effective May 16. **L.**

96: (4) amended, p. 1222, § 21, effective August 7. **L. 97:** (1) amended, p. 851, § 36, effective May 21. **L. 2002:** (4) repealed, p. 880, § 13, effective August 7.

Editor's note: Prior to the recreation and reenactment of this section on May 3, 1985, subsection (5) provided for the repeal of this section, effective January 1, 1985. (See L. 79, p. 1347.)

Cross references: For the legislative declaration contained in the 1996 act amending subsection (4), see section 1 of chapter 237, Session Laws of Colorado 1996.

36-1-149. Cultivation of state land - legislative declaration.

(1) In no case shall a lessee of state land be allowed to convert native grassland to cultivated land so long as the federal government has in place incentives intended to encourage the reduction of the amount of land under cultivation when such incentive is applicable in Colorado.

(2) Subsection (1) of this section shall not apply to a lessee who wishes to convert native grassland to cultivated land on a single parcel of state land which is twenty-five acres or less in size and which is contiguous to other land owned or leased by that lessee which is being cultivated at the time of the proposed conversion.

(3) The general assembly hereby finds and declares that this section is enacted to assure that this state's grasslands and topsoil, invaluable and nonrenewable resources, are protected and preserved for future generations. Additionally, this section is enacted to further the national and state interest in maintaining the highest price levels for agricultural products by reducing the amount of land under cultivation and thereby reducing the supply of such products. In furthering this national and state interest, the state is also assuring that existing and future leases of state land will continue to provide the maximum possible revenue to the state.

Source: L. 87: Entire section added, p. 1293, § 1, effective June 20.

36-1-150. Conservation easements.

The state board of land commissioners may sell or lease conservation easements, licenses, or other similar interests in land in accordance with the provisions of sections 9 and 10 of article IX of the state constitution.

Source: L. 97: Entire section added, p. 851, § 37, effective May 21.

36-1-151. Public schools - access to state lands.

The state board of land commissioners shall allow access to state trust lands by public schools without charge for outdoor educational purposes so long as such access does not conflict with uses previously approved by the board on such lands.

Source: L. 97: Entire section added, p. 851, § 37, effective May 21.

36-1-152. Public school districts - charter schools - lease, purchase, or other use of state lands.

(1) The state board of land commissioners shall provide opportunities for public school districts within which school trust lands are located to lease, purchase, or otherwise use such lands or portions thereof as are necessary for school building sites, at an amount to be determined by the board, which shall not exceed the appraised fair market value, which amount may be paid over time.

(2) The state board of land commissioners may provide opportunities for charter schools that are authorized by school districts pursuant to part 1 of article 30.5 of title 22, C.R.S., or charter schools that are authorized by the state charter school institute pursuant to part 5 of article 30.5 of title 22, C.R.S., to lease, purchase, or otherwise use school trust lands, or portions thereof, for school building sites. Prior to such lease, purchase, or other use of school trust lands by a charter school, the charter school shall notify the school district in which the land is located that the charter school is seeking to lease, purchase, or otherwise use state trust lands located within that school district for school building sites for the charter school. The state board of land commissioners shall request written comment from the school district in which the school trust lands that may be leased, purchased, or otherwise used by a charter school are located, indicating the impact such lease, purchase, or use will have on the school district. The board shall determine the amount a charter school shall be required to pay to lease, purchase, or otherwise use said lands, which amount shall not exceed the appraised fair market value and may be paid over time.

Source: L. 97: Entire section added, p. 852, § 37, effective May 21. **L. 2009:** Entire section amended, (SB 09-022), ch. 246, p. 1110, § 3, effective May 14.

36-1-152.3. State trust lands conservation and recreation work group - creation - membership - study - interim report.

(1) The executive director of the department shall convene a state trust lands conservation and recreation work group to conduct a study to identify opportunities to advance conservation; climate resilience; biodiversity; and sustainable, equitable, and low-conflict recreation on state trust lands in accordance with Colorado's outdoors strategy stewarded by the division of parks and wildlife. The work group shall conduct the study in a manner consistent with the state board of land commissioners' fiduciary responsibility to produce reasonable and consistent revenue for trust beneficiaries.

(2) (a) The work group shall:

(I) Meet as often as necessary, but no fewer than four times, to evaluate the state trust lands and the opportunities for recreation, conservation, and agriculture;

(II) Make recommendations on or before September 1, 2026, to the governor; the house of representatives agriculture, water, and natural resources committee and the senate agriculture and natural resources committee, or their successor committees; the state board of land commissioners; and the executive director of the department;

(III) Be assisted by a professional facilitator;

(IV) Engage specialists or subject matter experts as needed, including experts on the economy, landscape ecology, agriculture, mineral leasing and development, reclamation, and climate resilience; and

(V) Make all reasonable efforts to reduce the fiscal impact of the work group, including by allowing remote participation.

(b) On or before March 16, 2026, the work group shall provide an interim report to the parties listed in subsection (2)(a)(II) of this section, which interim report includes, at a minimum, information on potential recommendations for the long-term stewardship trust and the internal improvements and saline trusts.

(3) (a) By September 5, 2025, appointing authorities shall appoint voting members of the work group pursuant to subsection (3)(b) of this section. In making the appointments, the appointing authorities shall endeavor to achieve geographic diversity on the work group. In conducting the study, the work group shall solicit public input, including input regarding identification of particular properties to consider and management recommendations to include in the study.

(b) (I) The speaker of the house of representatives shall appoint to the work group:

(A) One member of the public school capital construction assistance board created in section 22-43.7-106;

(B) One representative of an environmental organization with expertise in land conservation and stewardship;

(C) One member with water resource management experience; and

(D) One member who is an agricultural producer or representative of a statewide agricultural organization.

(II) The majority leader of the house of representatives shall appoint to the work group:

(A) One county commissioner;

(B) One representative of a wildlife and habitat conservation organization; and

(C) One representative of a commercial real estate entity with experience leasing property on state lands.

(III) The minority leader of the house of representatives shall appoint to the work group:

(A) One oil and gas operator with experience leasing property on state trust lands; and

(B) One member who is an agricultural producer or representative of a statewide agricultural organization.

(IV) The president of the senate shall appoint to the work group:

(A) One member with a background in outdoor equity;

(B) One representative from the renewable energy industry with experience leasing renewable energy facilities on state trust lands;

(C) One representative of a hunting or angling organization; and

(D) One member with experience in the affordable housing sector.

(V) The majority leader of the senate shall appoint to the work group:

(A) One educational stakeholder representing rural schools;

(B) One representative of the mining industry with experience leasing property on state trust lands; and

(C) One elected representative of a municipality.

(VI) The minority leader of the senate shall appoint to the work group:

(A) One oil and gas operator with experience leasing property on state trust lands; and

(B) One member who is an agricultural producer or representative of a statewide agricultural organization.

(VII) The governor shall appoint to the work group:

(A) One member with economic expertise related to issues the work group will study;

(B) One representative of motorized recreation;

(C) One member with legal expertise, including knowledge of the state constitution, fiduciary duties, and statutes governing the issues the work group will study; and

(D) One representative of nonmotorized recreation.

(VIII) The executive director of the department shall, through the Colorado commission of Indian affairs created in section 24-44-102, present to the Ute Mountain Ute Tribe and the Southern Ute Indian Tribe on the work group and its objectives and invite the Ute Mountain Ute Tribe and the Southern Ute Indian Tribe to participate in the work group. The Ute Mountain Ute Tribe and the Southern Ute Indian Tribe may accept or decline the invitation to participate, and, if either tribe elects to participate, the tribe shall appoint a representative to serve on the work group.

(IX) The Colorado commission of Indian affairs created in section 24-44-102 shall appoint to the work group one member who is a member of the American Indian community in Colorado.

(c) The technical advisory members of the work group are:

(I) The commissioner of education or the commissioner's designee;

(II) The director of the division of parks and wildlife or the director's designee;

(III) The director of the state board of land commissioners or the director's designee;

(IV) The executive director of the department or the executive director's designee;

(V) The commissioner of agriculture or the commissioner's designee;

(VI) The state historic preservation officer or the officer's designee;

(VII) The director of the outdoor recreation industry office created in section 24-48.5-129 (2) or the director's designee;

(VIII) The director of the Colorado tourism office created in section 24-49.7-103 (1), as appointed by the director of the office of economic development, or the director's designee;

(IX) The state forester in the Colorado state forest service, as described in section 23-31-302, or the state forester's designee; and

(X) The state historic preservation officer or the officer's designee.

Source: L. 2025: Entire section added, (HB 25-1332), ch. 184, p. 799, § 3, effective August 6.

Cross references: For the legislative declaration in HB 25-1332, see section 1 of chapter 184, Session Laws of Colorado 2025.

36-1-152.5. Work group study - requirements.

(1) (a) As part of the study conducted pursuant to section 36-1-152.3 (1), the state trust lands conservation and recreation work group shall provide recommendations to the parties identified in section 36-1-152.3 (2)(a)(II) regarding how to implement the mandate of section 10 of article IX of the state constitution, including recommendations on how to:

(I) Further the long-term productivity and sound stewardship of all state trust lands, not only those in the long-term stewardship trust;

(II) Preserve and enhance the beauty, natural values, open space, and wildlife of the state for current and future generations;

(III) Promote long-term productivity for agriculture;

(IV) Provide for sustainable, equitable, and low-conflict recreational opportunities on state trust lands, including an evaluation of how to minimize impacts of recreational access on existing agricultural leases of state trust lands; and

(V) Identify management options for the utilization of natural resources on state trust lands to conserve the long-term value of the state trust lands while the state board of land commissioners carries out its fiduciary duties.

(b) The work group's recommendations shall not be construed to alter or impair the validity of any existing leases on state trust lands or to limit the state board's ability to continue using a multiple-use management approach for consideration of future leases on state trust lands.

(2) The work group's study must include, at a minimum:

(a) Soliciting regional partnership initiatives and counties to identify state trust land parcels that hold unique opportunities for regional recreation, conservation activities, and agricultural opportunities;

(b) A review of state trust land parcels for opportunities to advance conservation, climate resiliency, water resources, or habitat connectivity, including conservation or agricultural leases or permanent protection, including through sales and intertrust swaps;

(c) Identification of state trust land parcels that present unique opportunities for conservation and educational purposes, which identification may include recommendations as to whether and how long-term disposition of parcels should occur, including lease, easement, or fee title

acquisition for conservation purposes such as habitat restoration or ecosystem services. Identification of parcels must include consideration of:

(I) State park and state wildlife area creation or expansion, including through the use of the internal improvements and saline trusts;

(II) Future long-term management solutions for parks and wildlife areas currently leased or utilized by the division of parks and wildlife, including Lone Mesa state park and Queens state wildlife area;

(III) Current and future public use by schoolchildren for outdoor recreation and educational purposes; and

(IV) High-value lands used to improve climate-resilient conservation and recreation opportunities, including those lands with:

(A) Important habitat for species of greatest conservation needs;

(B) High-priority habitats, as defined in section 34-60-132 (1)(n), identified by the division of parks and wildlife;

(C) Wetlands and riparian areas;

(D) Habitat connectivity; and

(E) Agricultural opportunities;

(d) Recommendations regarding actions to advance conservation and recreation on state trust lands based in part on an analysis of conservation measures and public recreation access and management solutions on state trust lands in other states and consideration of private property rights of lessees and adjacent landowners, including:

(I) An evaluation of the challenges and opportunities associated with public recreational access on state trust lands, including ways to reduce conflicts with and impacts to existing lessees and consideration of any applicable lessons from other states regarding management of recreation on state trust lands;

(II) Opportunities for the state board of land commissioners to utilize nonperpetual conservation leases in accordance with section 10 of article IX of the state constitution; and

(III) Methods for implementing the tools described in subsection (2)(d)(II) of this section, including valuation of conservation leasing opportunities and consideration of long-term value;

(e) Consideration of potential net revenue changes or management changes when identifying state trust land parcels for examination;

(f) Consideration of the internal improvements and saline trusts, including the development of recommendations for use of the internal improvements and saline trusts to ensure maximum

public benefit for advancement of the division of parks and wildlife's mission, including consideration of:

(I) Outdoor recreation and wildlife conservation; and

(II) Transferring title of land within the internal improvements and saline trusts to the division of parks and wildlife;

(g) An assessment of opportunities to continue and expand upon sound stewardship and land management practices through agricultural leases and opportunities to advance long-term management for agricultural leases on state trust land parcels, including those parcels in the long-term stewardship trust;

(h) An assessment of state trust land parcels in the long-term stewardship trust, which assessment includes the identification of stewardship trust properties with existing uses or long-term impacts that are incompatible with primarily protecting and enhancing beauty, natural values, open space, and wildlife habitat. Some leases may be presumed compatible, such as Colorado natural areas program leases, the division of parks and wildlife leases, conservation leases, ecosystem services leases, and agricultural leases.

(i) Recommendations to:

(I) Evaluate long-term stewardship trust properties or portions of stewardship trust properties in which the existing use or uses create long-term impacts that are incompatible with primarily protecting and enhancing beauty, natural values, open space, and wildlife habitat; and

(II) Develop a proposed process to timely address any incompatibility, including by the removal and nomination of other state trust land properties as replacement parcels with qualifying values and equivalent acreage;

(j) Evaluation and reporting on the long-term value, including the option value, of long-term stewardship trust assets;

(k) Recommendations regarding rigorous review standards of future leases of stewardship trust parcels to better preserve long-term benefits and returns to the state, including requirements to evaluate the division of parks and wildlife's high-priority habitats, as defined in section 34-60-132 (1)(n); habitat connectivity; wetland and riparian resources; the presence of conservation easements; existing land stewardship practices; rare plants and plant communities; important wildlife species; cultural resources; paleontological resources; and geologic resources; and

(l) Recommendations on how to improve public engagement of appropriate stakeholders, including local governments, state agencies, federal agencies, and tribal nations, in the consultation and notification process used for new leases or uses of long-term stewardship trust parcels.

(3) On or before February 1, 2026, the state board of land commissioners shall:

(a) Review all existing leases on long-term stewardship trust parcels to determine whether the lands are managed primarily to preserve long-term returns and benefits to the state, including to protect and enhance the lands' beauty, natural values, open space, and wildlife habitat and provide a report of the same matters to the work group;

(b) Provide to the work group, to the extent the information is available, a report regarding all occasions since 1996 in which a lease proposed for a stewardship trust parcel was denied as incompatible with primarily protecting and enhancing beauty, open space, natural values, and wildlife habitat;

(c) Provide to the work group, to the extent possible, documentation of lease stipulations that highlight measures to protect and enhance beauty, open space, natural values, and wildlife habitat when leasing stewardship trust lands; and

(d) Provide to the work group an analysis of public recreational access and management solutions on state trust lands in other states, including hunting, fishing, water access sites, motorized and nonmotorized trails, camping, and wildlife viewing, and an analysis of how those states minimize impacts to current leases on the same parcel.

Source: L. 2025: Entire section added, (HB 25-1332), ch. 184, p. 802, § 3, effective August 6.

Cross references: For the legislative declaration in HB 25-1332, see section 1 of chapter 184, Session Laws of Colorado 2025.

36-1-152.7. State board consideration of work group recommendations - conservation lease policies - rules.

(1) On or before February 15, 2027, the state board of land commissioners shall consider the work group's recommendations in the study conducted pursuant to section 36-1-152.3 and adopt an administrative policy or rules to establish, at a minimum:

(a) A process governing the implementation of conservation leases and related instruments on state trust lands, including a framework for the structure, pricing, and duration of such instruments;

(b) A specific process to substantiate how the state board balances revenue generation with conserving the long-term value of state trust lands;

(c) Any other policies or rules the state board, in its discretion, deems necessary to implement section 10 of article IX of the state constitution; and

(d) A schedule to review and update by December 2028, if necessary, all existing stewardship trust management plans or other applicable plans to achieve conservation purposes and require corrective management actions in accordance with the existing stewardship trust policy and lease terms.

Source: L. 2025: Entire section added, (HB 25-1332), ch. 184, p. 806, § 3, effective August 6.

Cross references: For the legislative declaration in HB 25-1332, see section 1 of chapter 184, Session Laws of Colorado 2025.

36-1-153. Investment and development fund.

(1) There is hereby created the state board of land commissioners investment and development fund, referred to in this section as the "fund". The fund shall consist of moneys credited to the fund pursuant to section 36-1-116 (1)(b)(II). Any balance in the fund at the close of a fiscal year and any interest earned on moneys in the fund shall remain in the fund and shall not revert to the permanent school fund. The fund is to be under the control of and to be administered by the state board of land commissioners. Moneys in the fund shall be continuously appropriated to the state board for the purposes set forth in this section.

(2) (a) Money in the fund shall be used at the discretion of the state board of land commissioners to hire staff, contract for services, make purchases, make annual payments on any financed purchase of an asset or certificate of participation agreements the state board instructed the state treasurer to enter into as allowed in section 36-1-118.5, and take such other actions as the state board deems appropriate to provide for the development of additional value-added benefit for the state's trust lands, including both portfolio enhancement and additional income. Such actions may include, but are not limited to, the rezoning, platting, master planning, or other development activities that increase the value of or rate of return from the state's trust lands. The state board of land commissioners may also use up to one million dollars per fiscal year of the money in the fund for asset maintenance, including, but not limited to, upkeep and replacement of buildings, agricultural sprinklers, fences, windmills, and water wells.

(b) The state board of land commissioners shall notify the state treasurer in writing of the amount that needs to be transferred from the investment and development fund to the state board of land commissioners financed fund created in section 36-1-118.5 (7), and no later than thirty days after receipt of such notification, the state treasurer shall transfer such sum to the state board of land commissioners financed fund created in section 36-1-118.5 (7).

(3) The controller shall authorize disbursements from the fund as directed by the state board of land commissioners on receipt of a voucher from the state board stating that the disbursement is to accomplish a purpose set forth in this section.

(4) On or before November 1, 2011, and on or before each November 1 thereafter, the state board of land commissioners shall deliver information on the portfolio enhancement and additional income generated as a result of this section, including information detailing the use of the fund for asset maintenance, as specified in section 36-1-102 (8). Each report shall include estimates of the increase in portfolio enhancement and income for the then-current fiscal year and the five succeeding state fiscal years.

(5) and (6) Repealed.

Source: L. 2005: Entire section added, p. 537, § 2, effective May 24. **L. 2009:** (5) and (6) repealed, (SB 09-022), ch. 246, p. 1111, § 4, effective May 14. **L. 2011:** (4) amended, (SB 11-029), ch. 51, p. 133, § 2, effective August 10. **L. 2013:** (2) amended, (HB 13-1274), ch. 376, p. 2215, § 5, effective June 5. **L. 2015:** (2)(a) and (4) amended, (HB 15-1245), ch. 97, p. 277, § 2, effective April 13. **L. 2021:** (2) amended, (HB 21-1316), ch. 325, p. 2061, §75, effective July 1.

Cross references: For the legislative declaration in HB 15-1245, see section 1 of chapter 97, Session Laws of Colorado 2015.

36-1-153.5. Annual income and inventory report.

(1) Notwithstanding section 24-1-136 (11)(a)(I), on or before November 1, 2011, and on or before each November 1 thereafter, the state board of land commissioners shall prepare an annual income and inventory report. The report shall include the following:

(a) Data regarding the income earned from lands held in trust by the board, including:

(I) A summary of the total revenues earned during the previous fiscal year from all lands held in trust by the board;

(II) A summary of the total revenues earned during the previous fiscal year from lands in each individual trust held by the board;

(III) A summary of the trends in revenue that have occurred in connection with the lands held in trust by the board; and

(IV) A summary of the anticipated growth in revenue and revenue trends in connection with the lands held in trust by the board;

(b) A summary of the state board of land commissioners' land inventory as of the date of the report, including the number of surface acres and subsurface acres in each individual trust held by the board; and

(c) The amount transferred to the public school capital construction assistance fund on the immediately preceding July 1, pursuant to section 22-43.7-104 (2)(b)(I), C.R.S.

(2) The state board of land commissioners shall deliver the annual income and inventory report as specified in section 36-1-102 (8).

Source: L. 2011: Entire section added, (SB 11-029), ch. 51, p. 133, § 3, effective August 10. **L. 2017:** IP(1) amended, (HB 17-1257), ch. 254, p. 1066, § 10, effective August 9.

36-1-153.7. Commercial real property operating fund - created.

(1) (a) The commercial real property operating fund, referred to in this section as the "fund", is hereby created in the state treasury and consists of all lease income earned by the state board of land commissioners from commercial real property. The state board of land commissioners shall control and administer the fund. The state controller shall, in cooperation with the state board of land commissioners and the state treasurer, establish accounts in the fund as necessary to ensure the proper accounting for all commercial real property that the state board of land commissioners owns and leases to third parties. Each account must consist of lease revenue, not including any damage deposits as allowed in section 36-1-129, for the commercial real property as separated by trust and must account for all expenses for the commercial real property held by each trust. Money in the fund is continuously appropriated to the state board of land commissioners and may be used to contract for the services of a third-party property management firm as specified in subsection (2) of this section, and for any other associated property management and operating costs. Money in the fund may be transferred to the state board of land commissioners financed fund created in section 36-1-118.5 (7). The state board of land commissioners shall notify the state treasurer in writing of the amount that needs to be transferred from the fund to the state board of land commissioners financed fund. The state treasurer shall transfer such amount no later than thirty days after receipt of such notification. All unencumbered and unexpended money in the fund at the end of each quarter in each fiscal year is distributed as specified in section 36-1-116.

(b) The state controller shall authorize disbursements from the fund as directed by the state board of land commissioners on receipt of a voucher from the state board stating that the disbursement is to accomplish a purpose set forth in subsection (2) of this section.

(2) (a) The state board of land commissioners may contract for the services of a third-party property management firm to manage any commercial real property. The state board of land

commissioners shall select the third-party property management firm through a competitive bid process. Bids must be evaluated using standard commercial real property management criteria.

(b) The term of any contract with a third-party property management firm that the state board of land commissioners enters into pursuant to this subsection (2) may not exceed three years with an option to renew for one additional year.

(c) Any procurements made by the third-party management firm on behalf of the state board of land commissioners for the management of commercial real property by the third-party management firm authorized in this subsection (2) are exempt from the "Procurement Code", articles 101 to 112 of title 24, C.R.S.

(d) Pursuant to sections 24-36-103 and 24-36-104, C.R.S., the third-party management firm must maintain lease revenue it collects in a depository authorized in section 24-75-603, C.R.S., in distinct bank accounts for each trust.

(e) The third-party management firm must produce quarterly management reports that detail the gross revenues and expenses for each commercial real property. The state board of land commissioners shall provide a copy of such management reports, after its review, to the department of natural resources' controller. The third-party management firm shall disburse revenues to the state no less frequently than on a quarterly basis to coincide with the recording of revenues and expenses as directed by the state controller. The revenues transferred to the state shall be net of actual expenses for the commercial real property. The third-party management firm may retain sufficient cash for the working capital needs of the commercial real property.

Source: L. 2013: Entire section added, (HB 13-1274), ch. 376, p. 2215, § 6, effective June 5. **L. 2021:** (1)(a) amended, (HB 21-1316), ch. 325, p. 2061, § 76, effective July 1.

36-1-154. Severability.

If any provision of this article is held invalid, such invalidity shall not affect other provisions of this article that can be given effect without such invalid provision.

Source: L. 2009: Entire section added, (HB 09-1317), ch. 381, p. 2073, § 4, effective June 2.

ARTICLE 2

Rights of Occupants

36-2-101. Right of citizens claiming.
36-2-102. Declaration of occupation.
36-2-103. Interest transferable.
36-2-104. Rights acquired before and after November 7, 1861.
36-2-105. Form of declaration of occupant.
36-2-106. Effect of declaration or deed.
36-2-107. Declaration not to include mines.
36-2-108. Settler may maintain trespass.
36-2-109. Inclosure not necessary in suit.
36-2-110. Claim must be marked.
36-2-111. Neglect to occupy - fence - plow.
36-2-112. Town lots - abandonment - mining districts.
36-2-113. Right of United States not denied.
36-2-114. Mining claims not affected.
36-2-115. Mining under claim - bond - damages.
36-2-116. Assessment of damage to improvements.
36-2-117. Justification of sureties.
36-2-118. Weekly demand of damages.

36-2-101. Right of citizens claiming.

Conceding to the United States the primary and paramount right to dispose of the soil of this state, according to the laws existing or to be enacted by congress, and full and complete exemption from every form of taxation of their property, it is hereby declared that as between all the good citizens residing in this state, and as between them, or any of them, and others, having or claiming, or pretending to have or claim, any right to occupy, possess, and enjoy any portion of the public domain situate within the boundaries of this state, and as between each and every one of them, and all other persons, associations, corporations, and powers except the government of the United States, the right as the same may exist under the local laws, to occupy, possess, and enjoy any tract or portion thereof, shall be respected in law in all the courts and tribunals of this state.

Source: R.S. p. 531, § 1. **G.L.** § 2124. **G.S.** § 2674. **R.S. 08:** § 5120. **C.L.** § 1103. **CSA:** C. 134, § 1. **CRS 53:** § 112-1-1. **C.R.S. 1963:** § 112-1-1.

ANNOTATION

Law reviews. For article, "The Public Domain in Colorado", see 13 Rocky Mt. L. Rev. 296 (1941).

It was the design and intention of the general assembly to clothe title by occupancy with the character of real estate. Gillett v. Gaffney, 3 Colo. 351 (1877); Cooper v. Hunter, 8 Colo. App. 101, 44 P. 944 (1896).

By virtue of this and the following sections, occupancy became an investive act. It invested the occupant with a tenure, assertable and defensible in mode and manner, as the highest estate known to the common law. It was not, therefore, a mere "naked possession", but a legal possession under the sanction, recognition, and protection of the law. Gillett v. Gaffney, 3 Colo. 351 (1877).

The right to possess land is same as that of owner of fee at common law. Upon the adjournment of the first general assembly, except as against the United States, and subject to be defeated by abandonment, the bona fide occupant held his lands by a tenure as secure against attack, intrusion, and disseizing, as the owner of the fee at common law and, with the exceptions named, had a title good against all the world. Gillett v. Gaffney, 3 Colo. 351 (1877).

The right to possess land is unassailable as if held by patent. So long as the claimant and his assigns comply with the provisions of this and the following sections, their right to possess and enjoy the land appropriated is as unassailable, except by the general government, or persons connecting themselves with the title of general government, as if they held it by patent of the United States. Cooper v. Hunter, 8 Colo. App. 101, 44 P. 944 (1896).

Title to such land is descendible. Title by occupancy of land subject to entry under the acts of congress, as town sites, must, under this and the following sections, be held to be descendible. Gillett v. Gaffney, 3 Colo. 351 (1877).

A survey of public lands made by the proper officers of the United States, and confirmed by the land department, is not open to challenge by any collateral attack in the courts. Russell v. Maxwell Land Grant Co., 158 U.S. 253 (1895); Colo. Fuel Co. v. Maxwell Land Grant Co., 22 Colo. 71, 43 P. 556 (1895).

36-2-102. Declaration of occupation.

All rights of occupancy, possession, and enjoyment of any tract or portion of the public domain, except mining claims, acquired after January 10, 1868, shall be expressed and described in a declaration, in cases of original occupation, and by a deed in cases of purchase, duly acknowledged by some officer authorized to take acknowledgments of deeds, and recorded in the office of the recorder of the county in which the land is situated.

Source: R.S. p. 531, § 2. **G.L.** § 2125. **G.S.** § 2675. **R.S. 08:** § 5121. **C.L.** § 1104. **CSA:** C. 134, § 2. **CRS 53:** § 112-1-2. **C.R.S. 1963:** § 112-1-2.

ANNOTATION

An entryman who files his declaration acquires no rights as against the United States or its grantees. Farmers' High Line Canal Co. v. Moon, 22 Colo. 560, 45 P. 437 (1896).

Applied in Gillett v. Gaffney, 3 Colo. 351 (1877).

36-2-103. Interest transferable.

The owner of every claim or improvement, on every tract or parcel of land, has a transferable interest therein, which may be sold in execution or otherwise. Any sale of such improvement is a sufficient consideration to sustain a promise.

Source: R.S. p. 531, § 3. **G.L.** § 2126. **G.S.** § 2676. **R.S. 08:** § 5122. **C.L.** § 1105. **CSA:** C. 134, § 3. **CRS 53:** § 112-1-3. **C.R.S. 1963:** § 112-1-3.

ANNOTATION

The right of occupancy and possession that are mentioned in this section and § 36-2-104 are such as exist between occupants of the public domain whose rights are dependent upon occupancy alone and not upon any right derived from the general government. Such rights in no measure interfere with the paramount title of the United States or its disposal of the land to one who acquires the right to purchase it under the act of congress, and are terminated whenever its title passes to such purchaser. McMillen v. Gerstle, 19 Colo. 98, 34 P. 681 (1893).

The right-of-way privilege conferred upon railroads by act of congress of March 3, 1875, did not attach on the filing and acceptance of the company's articles of incorporation and proofs of organization, but when the line of road was definitely fixed, either by actual construction or the filing of a map showing its definite location. Denver & R. G. R. R. v. Hanoum, 19 Colo. 162, 34 P. 838 (1893).

36-2-104. Rights acquired before and after November 7, 1861.

All rights of occupancy, possession, and enjoyment of any tract or portion of the public domain, acquired before November 7, 1861, shall be ascertained, adjudged, and determined by the local law of the district or precinct in which the tract is situated, as it existed on the day when such rights were acquired, or as it thereafter has existed; and if there were no local laws at that time, then by the common custom then prevailing in respect to such property in the district or precinct in which it existed. All such rights of occupancy, possession, and enjoyment, acquired since November 7, 1861, shall be ascertained, adjudged, and determined by the laws of this state in force at the date of such acquisition.

Source: R.S. p. 531, § 4. **G.L.** § 2127. **G.S.** § 2677. **R.S. 08:** § 5123. **C.L.** § 1106. **CSA:** C. 134, § 4. **CRS 53:** § 112-1-4. **C.R.S. 1963:** § 112-1-4.

ANNOTATION

For rights of occupancy and possession and their relation to the paramount title of the United States, see McMillen v. Gerstle, 19 Colo. 98, 34 P. 681 (1893).

Rules of a district relating to the location of mill sites must yield to the act of congress providing that mill sites could only be legally located upon non-mineral lands, insofar as they relate to the location of such sites upon mineral lands. Cleary v. Skiffich, 28 Colo. 362, 65 P. 59 (1901).

In the year 1860, a valid location of a mining claim on the public domain could be made only according to the rules, usages, and customs of miners in the district where such claim was situated. Sullivan v. Hense, 2 Colo. 424 (1874).

Judicial notice could not be taken of the rules, usages, and customs of mining districts; they had to be proved at the trial like any other fact, by the best evidence that could be obtained respecting them. Sullivan v. Hense, 2 Colo. 424 (1874).

36-2-105. Form of declaration of occupant.

The declaration by an occupant of a tract or portion of the public domain, required by section 36-2-102, shall be substantially in the following form:

To all whom these presents may concern:

Know ye, That I, A.B., of ....., in the county of ....., in the state of Colorado, do hereby declare and publish as a legal notice to all the world, that I have a valid right to the occupation, possession, and enjoyment of all and singular that tract or parcel of land, not exceeding one hundred and sixty acres, situate in the township of ....., in the county of ....., in the state of Colorado, bounded and described as follows:

(Here insert the description) together with all and singular the hereditaments and appurtenances thereunto belonging or in anywise appertaining.

Witness my hand and seal, this ..... day of ....., 20 .....(To be subscribed with the full first name and surname of the person making the application, and acknowledged in the same manner as a deed of real estate.)

Source: R.S. p. 532, § 5. **G.L.** § 2128. **G.S.** § 2678. **R.S. 08:** § 5124. **C.L.** § 1107. **CSA:** C. 134, § 5. **CRS 53:** § 112-1-5. **C.R.S. 1963:** § 112-1-5. **L. 73:** p. 612, § 3.

Cross references: For acknowledgment of a deed of real estate, see article 35 of title 38.

36-2-106. Effect of declaration or deed.

In all proceedings in any court of this state, the record of any declaration, deed, or mortgage, or other muniments of right, referred to in sections 36-2-103 and 36-2-105, shall be received, except as against the United States, and all persons claiming under the United States, as presumptive evidence of the regularity of the paper itself, under the local law or custom existing at the time of its execution; and, if the regularity thereof is challenged, the burden of proving the alleged irregularity shall rest upon the party making the challenge.

Source: R.S. p. 532, § 6. **G.L.** § 2129. **G.S.** § 2679. **R.S. 08:** § 5125. **C.L.** § 1108. **CSA:** C. 134, § 6. **CRS 53:** § 112-1-6. **C.R.S. 1963:** § 112-1-6.

36-2-107. Declaration not to include mines.

The declaration of every occupant of any tract or portion of the public domain, mentioned in section 36-2-105, shall not be construed to include any gold-bearing quartz lodes, silver lode, or gold diggings; but said lodes and diggings shall be excepted from the tract of said occupant and shall be subject to be occupied, possessed, and enjoyed as provided in section 36-2-115.

Source: R.S. p. 532, § 7. **G.L.** § 2130. **G.S.** § 2680. **R.S. 08:** § 5126. **C.L.** § 1109. **CSA:** C. 134, § 7. **CRS 53:** § 112-1-7. **C.R.S. 1963:** § 112-1-7.

Cross references: For lode claims, see article 43 of title 34.

36-2-108. Settler may maintain trespass.

Any person settled upon any of the public lands belonging to the United States may maintain trespass, ejectment, forcible entry and detainer, unlawful detainer, and forcible detainer for injuries done to the possession thereof.

Source: R.S. p. 532, § 8. **G.L.** § 2131. **G.S.** § 2681. **R.S. 08:** § 5127. **C.L.** § 1110. **CSA:** C. 134, § 8. **CRS 53:** § 112-1-8. **C.R.S. 1963:** § 112-1-8.

Cross references: For marking of claims, see § 36-2-110; for paramount right of United States, see § 36-2-113.

ANNOTATION

Title by occupancy raised to dignity of real estate. These are all actions applicable only to real estate, and show a clear purpose upon the part of the general assembly to raise title by occupancy to the dignity of real estate, and to surround its tenure with all the safeguards, its transfer with all the formalities, and its enjoyment with all the securities of a fee simple title. Gillett v. Gaffney, 3 Colo. 351 (1877).

This section was not intended to apply to town lots. Tucker v. McCoy, 8 Colo. 368, 8 P. 667 (1885).

Statutory remedies are exclusive. The only right to invoke the aid of the law as between different settlers on the public domain for the invasion or injury of their respective possessory rights is that given by statute, and the only remedies are the statutory remedies enumerated in this section. Adkison v. Hardwick, 12 Colo. 581, 21 P. 907 (1889).

Strict compliance is required. To avail himself of the benefits of this section, a settler must comply strictly with § 112-1-110, CRS 53 (now § 36-2-110), relating to the marking of boundaries. Martin v. Pittman, 3 Colo. App. 220, 32 P. 840 (1893).

A person having title to occupy a mining claim may maintain an action against one trespassing thereon, and such action lies for injury to the growing timber,

as well as to the mineral product of the soil itself. McFeters v. Pierson, 15 Colo. 201, 24 P. 1076 (1890).

Where officers are considering conflicting claims. The courts are without jurisdiction to determine the right of contending parties to purchase public land while a controversy is being waged before the proper officers to settle such right. Fulmele v. Camp, 20 Colo. 495, 39 P. 407 (1895).

Officer's jurisdiction to prevent the wrongful invasion of the possession of one in the actual occupancy of the public domain, so long as the title remains in the government, is essential to the maintenance of the peace and order of the community. Fulmele v. Camp, 20 Colo. 495, 39 P. 407 (1895).

36-2-109. Inclosure not necessary in suit.

On the trial of any such cause the possession or possessory right of the plaintiff shall be considered as extending to the boundaries embraced by the claim of such plaintiff, so as to enable him to have and maintain any of the actions provided in section 36-2-108, without being compelled to prove an actual inclosure; but each claim shall not exceed in any case one hundred and sixty acres of land.

Source: R.S. p. 533, § 9. **G.L.** § 2132. **G.S.** § 2682. **R.S. 08:** § 5128. **C.L.** § 1111. **CSA:** C. 134, § 9. **CRS 53:** § 112-1-9. **C.R.S. 1963:** § 112-1-9.

36-2-110. Claim must be marked.

Every claim, to entitle the holder to maintain any of the actions stated in section 36-2-108, shall be marked out so that the boundaries may be readily traced and the extent of such claim easily known. No person shall be entitled to maintain any of the actions for possession of, or injury done to, any claim unless he occupies the same or makes improvements thereon to the value of one hundred dollars.

Source: R.S. p. 533, § 10. **G.L.** § 2133. **G.S.** § 2683. **R.S. 08:** § 5129. **C.L.** § 1112. **CSA:** C. 134, § 10. **CRS 53:** § 112-1-10. **C.R.S. 1963:** § 112-1-10.

Cross references: For applicability of section, see § 36-2-114.

ANNOTATION

Strict compliance required. The action under § 36-2-108 is purely statutory. The statute is in derogation of the common law, and a party, to avail himself of its benefits, must prove strict compliance with the requirements of this section. Martin v. Pittman, 3 Colo. App. 220, 32 P. 840 (1893).

36-2-111. Neglect to occupy - fence - plow.

A neglect to occupy the claim, or to inclose at least five acres with a reasonable fence, or to plow at least five acres of the same for the period of six months shall be considered such an abandonment as to preclude the claimant from maintaining any of the actions stated in section 36-2-108.

Source: R.S. p. 533, § 11. **G.L.** § 2134. **G.S.** § 2684. **R.S. 08:** § 5130. **C.L.** § 1113. **CSA:** C. 134, § 11. **CRS 53:** § 112-1-11. **C.R.S. 1963:** § 112-1-11.

Cross references: For applicability of section, see § 36-2-114.

ANNOTATION

Neglect not established. A failure to do those things required by this section at a time when another was, either by open defiance of a valid judgment, or by litigation which tied the hands of the claimant, maintaining a possession which had been adjudicated illegal, was not due to "neglect". Rogers v. Bruce, 69 Colo. 298, 193 P. 1076 (1920).

36-2-112. Town lots - abandonment - mining districts.

Any person who has a title to occupy any lot within any city or village plot, or any lots or mining claim within any mining district in this state by virtue of a certificate, deed of gift or purchase from the original claimant, or his assigns, as well as all purchasers, under any decree or execution of any of the so-called provisional government courts, people's or miners' courts, of the lands situate within any city or village plot, or any lots, lands, or mining claims situate within any mining district, together with the original claimant of the lots, lands, or mining claims, shall be entitled to maintain the actions authorized by section 36-2-108 against any person who enters upon and occupies the lots, lands, or mining claims, or any of them. It is lawful for the citizens of mining districts to declare an abandonment of any creek, river, gulch, bank, or mining claim a

forfeiture of the rights of the claimants thereto; in which case the parties claimant shall not be enabled to maintain any of the actions mentioned in section 36-2-108.

Source: R.S. p. 533, § 12. **G.L.** § 2135. **G.S.** § 2685. **R.S. 08:** § 5131. **C.L.** § 1114. **CSA:** C. 134, § 12. **CRS 53:** § 112-1-12. **C.R.S. 1963:** § 112-1-12.

ANNOTATION

To maintain an action for injury to a mining claim, it is not necessary that the claimant should reside on the premises, nor that it should be inclosed or cultivated, nor that he should have a *pedis possessio* of the claim, according to the common acceptation of that term. McFeters v. Pierson, 15 Colo. 201, 24 P. 1076 (1890).

36-2-113. Right of United States not denied.

Nothing in this article shall be construed to deny the right of the United States to dispose of any lands in this state; nor shall the fact that the title to any lots, lands, lodes, or mining claims has not passed from the United States be any bar to the recovery of the plaintiff in any of the actions specified in section 36-2-108. As against the United States, and all persons holding any of the lands under the United States, or the laws thereof, this article shall be ineffective and void.

Source: R.S. p. 533, § 13. **G.L.** § 2136. **G.S.** § 2686. **R.S. 08:** § 5132. **C.L.** § 1115. **CSA:** C. 134, § 13. **CRS 53:** § 112-1-13. **C.R.S. 1963:** § 112-1-13.

ANNOTATION

Law reviews. For article, "The Myth of the Classic Property Clause Doctrine", see 63 Den. U.L. Rev. 495 (1986).

The rights given do not apply to land held under federal preemption or homestead laws. The law regulating the rights of settlers upon government land, as between themselves, has no force as applied to land which has been filed upon and is held under the preemption or homestead law of the United States. Union Pac. Ry. v. Kennedy, 12 Colo. 235, 20 P. 696 (1888).

There can be no recovery in ejectment against homestead claimant. An occupant of public lands claiming under this article will not be allowed to recover in ejectment against a claimant under the homestead act of the United States, and the plaintiff in such case will not be permitted to twist his action

into an action for trespass. Rudolph v. Thompson, 66 Colo. 98, 179 P. 151 (1919).

Squatter on "school land" acquired no rights as against the federal government. Where a squatter on "school land", which was given to the state by the national government, filed his declaratory statement as prescribed by § 36-2-105, whatever possessory rights were thus conferred, it is clear, not only by virtue of the provisions of this section, but in the absence of such provision, the respondent acquired no rights of any kind as against the United States, or its grantees. Farmers' High Line Canal & Reservoir Co. v. Moon, 22 Colo. 560, 45 P. 437 (1896).

36-2-114. Mining claims not affected.

Sections 36-2-110 and 36-2-111 are not intended and shall not be construed to affect or apply to mining claims but shall affect and be applicable to claims held or used for arable or pastoral agriculture only.

Source: R.S. p. 534, § 14. **G.L.** § 2137. **G.S.** § 2687. **R.S. 08:** § 5133. **C.L.** § 1116. **CSA:** C. 134, § 14. **CRS 53:** § 112-1-14. **C.R.S. 1963:** § 112-1-14.

36-2-115. Mining under claim - bond - damages.

When any improvements are made upon any claim held or used for arable or pastoral agriculture or upon any building lot, mill site, or other lot or premises and any person demands of the claimant to mine any portion of the claim upon which such improvements have been made, it is lawful for the occupant or holder of the claim to require a good and sufficient bond, in a sum double the value of the improvements upon the land sought to be mined, from the party demanding to mine upon the claim, with two or more sureties, to be approved by the county court of the county in which the claim is situate conditioned that the party shall pay all damage which may be sustained by the occupant or holder of such claim to the improvements thereon.

Source: R.S. p. 534, § 15. **G.L.** § 2138. **G.S.** § 2688. **R.S. 08:** § 5134. **C.L.** § 1117. **CSA:** C. 134, § 15. **CRS 53:** § 112-1-15. **C.R.S. 1963:** § 112-1-16. **L. 64:** p. 301, § 257.

ANNOTATION

The provisions of this section are for the benefit of the surface owner. Campbell v. Louisville Coal Mining Co., 39 Colo. 379, 89 P. 767 (1907).

Owner's failure to exact such security as a condition precedent to removing the minerals does not release the parties removing such minerals from the payment of damages occasioned by their negligence. Campbell v. Louisville Coal Mining Co., 39 Colo. 379, 89 P. 767 (1907).

36-2-116. Assessment of damage to improvements.

It is the duty of the county judge, by whom the bond is required to be approved in case the value of the improvements cannot be agreed upon by the claimant and the party seeking to mine, to appoint a day and hour to hear testimony respecting the value of the improvements which may be damaged by reason of such mining.

Source: R.S. p. 534, § 16. **G.L.** § 2139. **G.S.** § 2689. **R.S. 08:** § 5135. **C.L.** § 1118. **CSA:** C. 134, § 16. **CRS 53:** § 112-1-16. **C.R.S. 1963:** § 112-1-16. **L. 64:** p. 301, § 257.

36-2-117. Justification of sureties.

It is the duty of the county judge to require the sureties entering into such bond to justify before him, each in the sum stated in the bond. If the claimant excepts to the sureties, or either of them, it is lawful for the judge, and he is required, to examine the sureties excepted to on oath, touching the sufficiency of said sureties; and, if the judge finds any of the sureties insufficient, it is the duty of the judge to require further sufficient sureties, which shall be likewise approved and justified.

Source: R.S. p. 534, § 17. **G.L.** § 2140. **G.S.** § 2690. **R.S. 08:** § 5136. **C.L.** § 1119. **CSA:** C. 134, § 17. **CRS 53:** § 112-1-17. **C.R.S. 1963:** § 112-1-17. **L. 64:** p. 301, § 258.

36-2-118. Weekly demand of damages.

It shall be competent for the claimant to demand from the obligees in the bond, at any time after one week after mining is commenced on the claim, such sum as may be equal to the damage done to the improvements thereon, and after every week it shall be competent for the claimant to make a like demand, unless the payment of the damage done or to be done to the improvements shall by the claimant be postponed for a longer time.

Source: R.S. p. 534, § 18. **G.L.** § 2141. **G.S.** § 2691. **R.S. 08:** § 5137. **C.L.** § 1120. **CSA:** C. 134, § 18. **CRS 53:** § 112-1-18. **C.R.S. 1963:** § 112-1-18.

State Lands

ARTICLE 3

Desert Lands

36-3-101. Acceptance of congressional grant.
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36-3-101. Acceptance of congressional grant.

The state of Colorado accepts the conditions of section 4 of an act of congress entitled "An Act making appropriations for sundry civil expenses of the government for the fiscal year ending

June 30, 1894, and for other purposes, approved August 18, 1894.", together with all the grants of land to the state under the provisions of the act.

Source: L. 1895: p. 157, § 1. **R.S. 08:** § 5138. **C.L.** § 1121. **CSA:** C. 134, § 19. **CRS 53:** § 112-2-1. **C.R.S. 1963:** § 112-2-1.

Cross references: For the provisions of "An Act making appropriations for sundry civil expenses of the government for the fiscal year ending June 30, 1894", see 43 U.S.C. § 641; chap. 301, section 4 of 28 Stat. 422, known as the "Carey Act".

36-3-102. Selection and disposal of lands.

The selection, management, and disposal of the land shall be vested in the state board of land commissioners.

Source: L. 1895: p. 157, § 2. **R.S. 08:** § 5139. **L. 11:** p. 304, § 1. **C.L.** § 1122. **CSA:** C. 134, § 20. **CRS 53:** § 112-2-2. **C.R.S. 1963:** § 112-2-2.

36-3-103. Acceptance of conditions.

The state accepts the conditions of section 4 of an act of congress, entitled "An Act making appropriations for sundry civil expenses of the government for the fiscal year ending June 30, 1894.", together with all acts amendatory thereto, including the amendatory acts of congress of June 11, 1896, March 3, 1901, March 1, 1907, February 24, 1909, and March 15, 1910, together with all grants of land made or to be made under the provisions of the acts.

Source: L. 1895: p. 157, § 1. **R.S. 08:** § 5138. **L. 11:** p. 303, § 1. **C.L.** §§ 1121, 1123. **CSA:** C. 134, §§ 19, 21. **CRS 53:** § 112-2-3. **C.R.S. 1963:** § 112-2-3.

Cross references: For the provisions of "An Act making appropriations for sundry civil expenses of the government for the fiscal year ending June 30, 1894", see 43 U.S.C. § 641; chap. 301, section 4 of 28 Stat. 422, known as the "Carey Act".

36-3-104. Control of land - Carey act fund.

The selection, management, and disposal of the land and all such lands as may be granted on or after June 1, 1911, to the state by the United States shall be vested in the state board of land commissioners as constituted, and that board is empowered to accept all moneys upon the part of the state from the purchasers of the land, and to place the same in a fund to be designated as the "Carey act fund", and to disburse the same as provided in this section. It is empowered to accept from the settlers, filing on lands under the provisions of the acts within the former Southern Ute and Ute Indian reservations, as defined in the amendatory acts of congress of March 1, 1907, and February 24, 1909, the sum of one dollar and twenty-five cents per acre for each acre thereof to be patented and to pay the same into the treasury of the United States. The board is authorized to accept any future grants of such lands by the United States to this state and to agree to and accept on behalf of the state any conditions that may be imposed by the United States in relation thereto.

Source: L. 11: p. 303, § 2. **C.L.** § 1124. **CSA:** C. 134, § 22. **CRS 53:** § 112-2-4. **C.R.S. 1963:** § 112-2-4. **L. 96:** Entire section amended, p. 1222, § 22, effective August 7.

Cross references: (1) For the "Carey Act" and amendments thereto, see 43 U.S.C. §§ 641-648; for duties of the state board of land commissioners, see article 1 of this title and §§ 9 and 10 of art. IX, Colo. Const.

(2) For the legislative declaration contained in the 1996 act amending this section, see section 1 of chapter 237, Session Laws of Colorado 1996.

36-3-105. Record of proceedings of land board.

The register of the board shall act as secretary, and it is his duty to keep a careful record of the transactions of the board in substantially bound books to be kept for that purpose and which shall be known as the record and proceedings of the state board of land commissioners under this article.

Source: L. 1895: p. 157, § 3. **R.S. 08:** § 5140. **C.L.** § 1125. **CSA:** C. 134, § 23. **CRS 53:** § 112-2-5. **C.R.S. 1963:** § 112-2-5.

36-3-106. Duties and powers of register.

The register of the board shall have the custody of the records of the board, receive and file all proposals for the construction of irrigation works to reclaim lands selected under the provisions of this article, prepare and keep for public inspection maps and plats on a scale of two inches to the mile of all lands selected, receive entries of settlers on these lands and hear or receive the final proof of their reclamation under the rules and regulations prescribed by the state board of land commissioners, and do all work required by the board in carrying out the provisions of this article. He shall have authority to administer oaths whenever necessary in the performance of his duties as register and secretary of the board.

Source: L. 1895: p. 157, § 4. **R.S. 08:** § 5141. **C.L.** § 1126. **CSA:** C. 134, § 24. **CRS 53:** § 112-2-6. **C.R.S. 1963:** § 112-2-6.

36-3-107. Request for selection.

(1) Any person, company of persons, association, or incorporated company desiring to construct ditches, canals, or other irrigation works to reclaim land under the provisions of this article shall file with the board a request for the selection on behalf of the state by the board of the land to be reclaimed, designating said land by legal subdivisions. This request shall be accompanied by a proposal to construct the ditch, canal, or other irrigation works necessary for the complete reclamation of the land asked to be selected. The proposal shall be prepared in accordance with the rules of the board, and with the regulations of the department of the interior. It shall state the post-office address and residence of the parties; the source of water supply; the point of diversion; the place of storage, if stored; the location and dimensions of the proposed works; the estimated cost thereof; the carrying capacity of the ditch or canal; and the price and terms at which perpetual water rights will be sold to settlers on the land reclaimed. The perpetual right shall embrace a proportionate concurrent interest in the ditch, canal, or other irrigation works, together with all rights and franchises attached. All water rights sold or otherwise held under the ditch or canal shall have equal rights as to priority.

(2) The proportionate concurrent interest may be either in the form of shares of stock in a company which will ultimately own and control the works, or in the form of water right deeds or contracts, as may be determined by the board. All contracts for the sale of water rights under this article shall be in the form, and upon conditions, approved by the board. In the cases of incorporated companies, it shall state the name of the company, the purpose of the incorporation, the name and places of residence of its directors and officers, and the amount of its authorized and of its paid-up capital. It shall be organized under the laws of Colorado. If the applicant is not an incorporated company, the proposal shall set forth the names of the parties and such other

facts as will enable the board to determine their financial ability to carry out the proposed undertaking or as may be required by the board.

(3) Nothing in this article shall be construed to prevent the entry and reclamation of land under this article by individuals, duly qualified either singly or acting together. The state board of land commissioners shall make such rules and regulations not inconsistent with the act of congress, or the rules and regulations of the department of the interior, as may be necessary to allow the acquisition of individual water rights for application to and reclamation of specific tracts of land, not exceeding one hundred sixty acres of land for each person. The requirements of this article as to plats, maps, examinations, reports, bonds, and contracts by such rules and regulations may be so modified as to effectuate and assist the reclamation and entry of land by individuals.

Source: L. 1895: p. 158, § 5. **R.S. 08:** § 5142. **L. 11:** p. 305, § 3. **C.L.** § 1127. **CSA:** C. 134, § 25. **CRS 53:** § 112-2-7. **C.R.S. 1963:** § 112-2-7.

36-3-108. Certified check with proposal.

A certified check payable to the state board of land commissioners for a sum of not less than two hundred fifty dollars and not more than two thousand five hundred dollars, as may be determined by the rules of the board, shall accompany each such request and proposal. It shall be held as a guarantee of the execution of the contract with the state, in accordance with its terms, by the party submitting such proposal, in case of the approval of the same and the selection of the land by the board. It shall be forfeited to the state in case of failure of the parties to enter into a contract with the state, in accordance with the provisions of this article.

Source: L. 1895: p. 158, § 6. **R.S. 08:** § 5143. **C.L.** § 1128. **CSA:** C. 134, § 26. **CRS 53:** § 112-2-8. **C.R.S. 1963:** § 112-2-8.

36-3-109. Application to state engineer - maps.

The person, company of persons, associations, or incorporated companies, making application to the board for the selection of lands by the state, shall have filed with the state engineer an application to appropriate water for the reclamation of the lands described in the request to the board. This application shall be of a form prescribed by the state engineer and shall be accompanied by two copies of the map of the land to be selected, which shall show accurately the location and dimensions of the proposed irrigation works. The maps of the lands and

proposed irrigation shall be prepared in accordance with the regulations of the state engineer's office and rules of the department of the interior.

Source: L. 1895: p. 159, § 7. **R.S. 08:** § 5144. **L. 11:** p. 305, § 2. **C.L.** § 1129. **CSA:** C. 134, § 27. **CRS 53:** § 112-2-9. **C.R.S. 1963:** § 112-2-9.

36-3-110. Examination of proposal - report.

(1) Immediately upon the receipt of any request and proposal as designated in section 36-3-107, it is the duty of the secretary of the board to examine the same and ascertain if it complies with the rules of the board and the regulations of the department of the interior. If it does not, it is to be returned for correction. If it does comply, it shall be submitted to the state engineer, who shall examine the same and make a written report to the board, stating whether the proposed works are feasible; whether the proposed diversion of the public waters of the state will prove beneficial to the public interest; whether there is sufficient unappropriated water in the source of supply; whether a permit to divert, store, and appropriate water through or by the proposed works has been approved by him; whether the capacity of the proposed works is adequate to reclaim the land described; and whether the maps filed comply with the requirements of his office and the regulations of the department of the interior. He shall determine whether the lands proposed to be irrigated are desert in character and such as may properly be set apart under the provisions of the act of congress referred to in section 36-3-103 and the rules and regulations of the department of the interior.

(2) When the state engineer is unable, from an examination of the maps and field notes submitted for his examination, to determine whether the proposed irrigation works are feasible and adequate or whether the proposed diversion of the public water is beneficial to public interest and whether the lands proposed to be irrigated are of such a character as to come under the provisions of the act of congress referred to in section 36-3-103, he shall report to the board and also report the estimated cost of a survey and examination. It is his duty to make, or cause to be made by some qualified assistant, such survey or examination as will enable him to report intelligently thereon to the board when directed by the board to make such examination or survey.

Source: L. 1895: p. 160, § 8. **R.S. 08:** § 5145. **C.L.** § 1130. **CSA:** C. 134, § 28. **CRS 53:** § 112-2-10. **C.R.S. 1963:** § 112-2-10.

36-3-111. Board to consider proposal.

On receipt of the report of the state engineer, the register shall place the request and proposal, with the engineer's report thereon, before the board for its consideration. In case of approval the board shall instruct the register to file in the local land office a request for the withdrawal of the land described in the proposal. No request on which the state engineer has reported adversely, either as to the water supply, the feasibility of the construction, capacity of the works, or as to the character of the lands sought to be irrigated, shall be approved by the board.

Source: L. 1895: p. 161, § 9. **R.S. 08:** § 5146. **C.L.** § 1131. **CSA:** C. 134, § 29. **CRS 53:** § 112-2-11. **C.R.S. 1963:** § 112-2-11.

36-3-112. Rejection of proposal - second proposal.

In case the state engineer reports adversely upon the proposed irrigation works or where requests and proposals are not approved by the board, the board shall notify the parties making such proposals of such actions and the reasons therefor. Any party so notified shall have sixty days in which to submit another proposal; but the board, at its discretion, may extend the time to six months.

Source: L. 1895: p. 161, § 10. **R.S. 08:** § 5147. **C.L.** § 1132. **CSA:** C. 134, § 30. **CRS 53:** § 112-2-12. **C.R.S. 1963:** § 112-2-12.

36-3-113. Provision for contract - bond.

Upon the withdrawal of the land by the department of the interior, it is the duty of the board to enter into a contract with the party submitting the proposal, which contract shall contain complete specifications of the location, dimensions, character, and estimated cost of the proposed ditch, canal, or other irrigation work and state the price and terms upon which the state is to dispose of the lands to settlers and such other conditions and provisions as the board may direct. This contract shall not be entered into on the part of the state until the withdrawal of these lands by the department of the interior and the filing of a satisfactory bond on the part of the proposed contractor for irrigation works, which bond shall be in a penal sum equal to five percent of the estimated cost of the works and conditioned upon carrying out the provisions of the contract with the state.

Source: L. 1895: p. 161, § 11. **R.S. 08:** § 5148. **C.L.** § 1133. **CSA:** C. 134, § 31. **CRS 53:** § 112-2-13. **C.R.S. 1963:** § 112-2-13.

36-3-114. Time for construction - forfeiture.

No proposal shall be considered by the board which requires a greater time than five years for the construction of the works. All proposals shall state that the work shall begin within six months from the date of contract; that at least one-tenth of the construction work shall be completed within two years from the date of said contract; that the construction shall be prosecuted diligently and continuously to completion; and that a cessation of work under the contract with the state for a period of six months after the second year, without the sanction of the board, will forfeit to the state all rights under said contract. The board, for good cause shown, shall extend the time of beginning or of completing the whole or any part of said construction work for a period commensurate with the difficulties of construction and the location of the proposed project. No extension of time shall be granted until after thirty days' notice, given by publication in at least one daily paper, published at the capital, and in at least one paper published in each county in which the project and the land sought to be watered thereby is located, of the time and place where such extension of time will be considered and opportunity afforded to all interested parties to appear and be heard.

Source: L. 1895: p. 162, § 12. **R.S. 08:** § 5149. **L. 11:** p. 300, § 1. **C.L.** § 1134. **CSA:** C. 134, § 32. **CRS 53:** § 112-2-14. **C.R.S. 1963:** § 112-2-14.

36-3-115. Failure in construction.

(1) Upon the failure of any parties having contracts with the state for the construction of irrigation works to begin the same within the time specified by law, or to carry on work as provided in their contract, or to complete the same within the time or in accordance with the specifications of the contract with the board and the provisions of this article, it is the duty of the register to give such parties written notice of such failure. In the event the board has extended the time of the beginning or of completing the whole or any part of the construction work beyond the time set forth in the contract between the state and the party submitting the proposal, then the conditions and penalties of this section shall not apply to or be enforceable against the parties constructing the project until the time the extensions have expired.

(2) If, after a period of sixty days they have failed to proceed with the work or to conform to the specifications and conditions of their contract with the state, it is the duty of the board to declare the bond and contract of such parties forfeited to the state. The board shall notify the contractors of the forfeiture of the contract, by letter to the address given in the proposal, and

give notice once a week for a period of four weeks, in some newspaper of general circulation in the county in which the work is situated, and in one newspaper at the state capital in like manner and for a like period. Upon a day fixed, proposals will be received at the office of the register, at the capitol at Denver, for the purchase of the incompleted works and for the completion of the contract.

(3) The time for receiving bids shall be at least sixty days after the issuance of first notice of forfeiture. The money received from the sale of partially completed works under the provisions of section 36-3-114 shall first be applied to the expense incurred by the state in their forfeiture and disposal to satisfy the bond and to the satisfaction, pro rata, of the adjudicated liens for labor or materials. The surplus, if any exists, shall be paid to the original contractors with the state.

Source: L. 1895: p. 162, § 13. **R.S. 08:** § 5150. **L. 11:** p. 301, § 2. **C.L.** § 1135. **CSA:** C. 134, § 33. **CRS 53:** § 112-2-15. **C.R.S. 1963:** § 112-2-15.

Cross references: For publication of legal notices, see part 1 of article 70 of title 24; for the mechanics' lien law in general, see article 22 of title 38.

36-3-116. State not to be made liable.

Nothing in this article shall be construed as authorizing the board to obligate the state to pay for any work constructed under any contract or to hold the state in any way responsible to settlers for the failure of contractors to complete the work according to the terms of their contracts with the state.

Source: L. 1895: p. 163, § 14. **R.S. 08:** § 5151. **C.L.** § 1136. **CSA:** C. 134, § 34. **CRS 53:** § 112-2-16. **C.R.S. 1963:** § 112-2-16.

36-3-117. Notice of land open for settlement.

Immediately upon the withdrawal of any land for the state by the department of the interior, and the inauguration of work by the contractors, it is the duty of the board, by publication once each week, in one newspaper of the county in which the lands are situated, and in one newspaper at the state capital for a period of four weeks, to give notice that the land is open for settlement, and the price and terms upon which the land will be sold to settlers by the state.

Source: L. 1895: p. 163, § 15. **R.S. 08:** § 5152. **C.L.** § 1137. **CSA:** C. 134, § 35. **CRS 53:** § 112-2-17. **C.R.S. 1963:** § 112-2-17.

Cross references: For publication of legal notices, see part 1 of article 70 of title 24.

36-3-118. Application to enter - requirements.

Any citizen of the United States, or any person having declared his intention to become a citizen of the United States, over the age of twenty-one years, may make application, under oath, to the board to enter any of the land in an amount not to exceed one hundred and sixty acres for any one person. The application shall set forth that the person desiring to make such entry does so for the purpose of actual reclamation, cultivation, and settlement in accordance with the act of congress set out in section 36-3-103 and the laws of this state relating thereto and that the applicant has never received the benefit of the provisions of this article to an amount greater than one hundred and sixty acres, including the number of acres specified in the application under consideration. Such application must be accompanied by a certified copy of a contract for a perpetual water right, made and entered into by the party making application, with the person, company, or association which has been authorized by the board to furnish water for the reclamation of the lands. If the applicant has at any time entered land under the provisions of this article, he shall so state in his application, together with the description, date of entry, and location of the land. The board shall file in its office the application and papers relating thereto and, if allowed, issue a certificate of location to the applicant. All applications for entry shall be accompanied by a payment of twenty-five cents per acre, which shall be paid as a partial payment on the land if the application is allowed. All certificates, when issued, shall be recorded in a book to be kept for that purpose. If the application is not allowed, the twenty-five cents per acre accompanying it shall be refunded to the applicant. The board shall dispose of all lands accepted by the state under the provisions of this article at a uniform price of fifty cents per acre, half to be paid at the time of entry and the remainder at the time of making final proof by the settler.

Source: L. 1895: p. 163, § 16. **R.S. 08:** § 5153. **C.L.** § 1138. **CSA:** C. 134, § 36. **CRS 53:** § 112-2-18. **C.R.S. 1963:** § 112-2-18.

36-3-119. Disposition of funds.

As provided in the act of congress set out in section 36-3-103, all moneys received by the board from the sale of lands selected under the provisions of this article shall be deposited with

the state treasurer, and such sums as may be necessary shall be available for the payment of the expenses of the board and of the state engineer's office incurred in carrying out the provisions of this article. Such expenses shall be paid by the controller in the manner provided by law, upon vouchers duly approved by the board for the work performed under its direction and by the state engineer for all work performed by the state engineer's office; and any balance remaining over and above the expense necessary to carry out the provisions of this article shall constitute a trust fund in the hands of the state treasurer, to be used for the reclamation of other desert lands.

Source: L. 1895: p. 164, § 17. **R.S. 08:** § 5154. **C.L.** § 1139. **CSA:** C. 134, § 37. **CRS 53:** § 112-2-19. **C.R.S. 1963:** § 112-2-19.

36-3-120. Duty of settler - proof of settlement.

(1) Within one year after any person, company of persons, association, or incorporated company authorized to construct irrigation works under the provisions of this article has notified the settlers under such works that it is prepared to furnish water under the terms of its contract with the state, the settlers shall cultivate and reclaim not less than one-sixteenth part of the land filed upon. Within two years after the notice, the settler shall have actually irrigated and cultivated not less than one-eighth of the land filed upon. Within three years from the date of notice, the settler shall appear before the register, or a judge or clerk of the district court in the county in which such land is situated, as designated by the register, and make final proof of reclamation, settlement, and occupation. The proof shall embrace evidence that he has a perpetual water right for his entire tract of land sufficient in volume for the complete irrigation and reclamation thereof, that he is an actual settler thereon, and that he has cultivated and irrigated not less than one-eighth part of said tract and such further proof, if any, as may be required by the regulations of the department of the interior or the board.

(2) The officer taking this proof is entitled to receive a fee, to be fixed by the state board of land commissioners, not to exceed five dollars and to be paid by the settler. It shall be in addition to the price paid to the state for the land. All proofs so received shall be submitted by the register to the board and shall be accompanied by the last final payment for the land, and, on the approval of the same by the board, they shall be forwarded to the secretary of the interior, with a request that a patent to the lands be issued to the state.

(3) When the state, through its state board of land commissioners, can make proof that such irrigation works have been completed for the reclamation of the lands so segregated and that an ample supply of water is actually furnished in a substantial ditch or canal or by artesian wells or reservoirs, for such purpose, the board shall apply for a patent to such lands, in the manner provided by the regulations of the department of the interior and in accordance with the

provisions of the acts of congress relating thereto, without waiting for settlement or cultivation of such lands.

Source: L. 1895: p. 165, § 18. **L. 07:** p. 366, § 1. **R.S. 08:** § 5155. **C.L.** § 1140. **CSA:** C. 134, § 38. **CRS 53:** § 112-2-20. **C.R.S. 1963:** § 112-2-20. **L. 64:** p. 301, § 259.

36-3-121. Patent - water lien - foreclosure - deed.

(1) Upon the issuance of a patent to any lands by the United States to the state, notice shall be forwarded to the settler upon such land. It is the duty of the board, under the signature of its president and attested by its secretary, to issue a patent to said lands from the state to the settler. All water rights acquired under the provisions of this article shall attach to and become appurtenant to the land as soon as the title passes from the United States to the state.

(2) Any person, company, association, or incorporated company furnishing water for any tract of land shall have a first and prior lien on the water right and land upon which the water is used, for all deferred payments for the water right. The lien shall be in all respects prior to any other liens created or attempted to be created by the owner and possessor of said land. The lien shall remain in full force until the last deferred payment for the water right is fully paid and satisfied according to the terms of the contract under which the water right was acquired. The contract for the water right upon which the lien is founded shall be recorded in the office of the county clerk and recorder of the county where the land is situate.

(3) Upon default of any of the deferred payments secured by any lien under the provisions of this article, the person, company of persons, association, or incorporated company holding or owning said lien may foreclose the same according to the terms and conditions of the contract granting and selling to the settler the water right. All sales shall be advertised in a newspaper of general circulation, published in the county where the land and water right is situate, for six consecutive weeks, and shall be sold to the highest bidder at the front door of the courthouse of the county or such place as may be agreed upon by the terms of the contract. The sheriff of the county shall give all notices of sale and sell all property and make and execute a good and sufficient deed to the purchaser. At the sale, no person, company of persons, association, or incorporated company, owning or holding any lien, shall bid in or purchase any land or water right at a price less than the amount due on the deferred payment for the water right and land and the costs incurred in making the sale of said land and water right. The sheriff shall execute a certificate of sale as in case of sale on execution, subject in all respects to redemption as in such case; and if not redeemed the sheriff shall execute a deed as upon sale on execution.

Source: L. 1895: p. 166, § 19. **R.S. 08:** § 5156. **C.L.** § 1141. **CSA:** C. 134, § 39. **CRS 53:** § 112-2-21. **C.R.S. 1963:** § 112-2-21.

36-3-122. Requirements of maps.

The maps of the lands selected under the provisions of this article shall show the location of the canals or other irrigation works approved in the contract with the board. All lands filed upon shall be subject to the right-of-way of such canals or irrigation works. The right-of-way shall embrace the entire width of the canal and such additional width as may be required for its proper operation and maintenance, the width of right-of-way to be specified in the contracts provided for in this article.

Source: L. 1895: p. 167, § 20. **R.S. 08:** § 5157. **C.L.** § 1142. **CSA:** C. 134, § 40. **CRS 53:** § 112-2-22. **C.R.S. 1963:** § 112-2-22.

36-3-123. Rules - report of construction company.

The board shall provide suitable rules for the filing of proposals for constructing irrigation works, and for the entry and payment of the land by settlers, and for the forfeiting of entry by settlers upon failure to comply with the provisions of this article. There shall be kept in the office of the board, for public inspection, copies of all maps, plats, contracts for the construction of irrigation works, and the entries of land by settlers. It shall require from each person, company of persons, association, or incorporated company engaged in the construction of irrigation works, under the provisions of this article, an annual report, to be submitted to the board on or before November 1 of each year. This report shall show the number of water rights sold, the number of users of water under the irrigation works, the legal subdivisions of land for which water is to be furnished, the names of the officers of the company, the acreage of land which the irrigation works is prepared to supply with water, and such other data as the board requires. The rules required by this section may be waived in the case of irrigation works being constructed by a person, colony, or association of persons to furnish water for land settled upon and being reclaimed by themselves.

Source: L. 1895: p. 167, § 21. **R.S. 08:** § 5158. **C.L.** § 1143. **CSA:** C. 134, § 41. **CRS 53:** § 112-2-23. **C.R.S. 1963:** § 112-2-23.

36-3-124. Duties of employees - fees.

(1) The board shall prescribe the duties of all its employees and shall collect the following fees: For filing each application, one dollar; for filing each proof, one dollar; for issuing each patent, one dollar; and for making certified copies of papers or records, the same fee as provided for to be charged by the secretary of state for like services.

(2) A fee book shall be kept by the register, showing all fees received by him from any source whatever. The money collected for fees shall be paid to the state treasurer and credited to the fund created by virtue of this article.

Source: L. 1895: p. 168, § 22. **R.S. 08:** § 5159. **C.L.** § 1144. **CSA:** C. 134, § 42. **CRS 53:** § 112-2-24. **C.R.S. 1963:** § 112-2-24.

Cross references: For fees charged by secretary of state, see § 24-21-104; for other fees of the state board of land commissioners, see § 36-1-112.

36-3-125. Record of work - publication.

The board shall maintain a detailed record of the names, location, and character of the irrigation works in process of construction; the acreage and legal subdivisions of land intended to be reclaimed; the estimated cost of said irrigation works; the price of water rights from such irrigation works; and the terms of payment for water rights and land. Publication of this information and of other material circulated in quantity outside the board shall be subject to the approval and control of the executive director of the department of natural resources.

Source: L. 1895: p. 168, § 23. **R.S. 08:** § 5160. **C.L.** § 1145. **CSA:** C. 134, § 43. **CRS 53:** § 112-2-25. **C.R.S. 1963:** § 112-2-25. **L. 64:** p. 164, § 120.

ARTICLE 4

Reclamation of State Lands

36-4-101. Water rights for state lands.
36-4-102. Water tax - assessment.
36-4-103. Payment by lessee or purchaser.
36-4-104. Board may improve state land.

36-4-105. Water rights acquired - how.
36-4-106. Board may proceed - how.
36-4-107. Departmental decisions.
36-4-108. Power of eminent domain.
36-4-109. Parties - process.
36-4-110. Interests vested in state.
36-4-111. Mandamus - injunction.
36-4-112. Attorney general to enforce.

36-4-101. Water rights for state lands.

For the purpose of furnishing water and securing water rights for state lands, the state board of land commissioners is authorized to enter into contracts with any person, corporation, or irrigation district, providing for such irrigation, and to petition all such lands into irrigation districts at the time of or after the formation of such districts.

Source: L. 11: p. 211, § 1. **C.L.** § 1190. **CSA:** C. 134, § 89. **CRS 53:** § 112-4-1. **C.R.S. 1963:** § 112-4-1.

Cross references: For drainage of state lands, see article 30 of title 37; for inclusion of college and school lands in irrigation districts, see § 37-43-112.

36-4-102. Water tax - assessment.

In case of any such land so petitioned into any irrigation district, the state board of land commissioners shall be considered in all respects as a freeholder, so long as said land remains unsold, but as soon as any of such land is sold, whether occurring prior or after the time such land is petitioned into any such irrigation district, the purchaser shall from the time of his purchase be considered as such freeholder and entitled to all the rights of a freeholder, whether or not he has completed his payments to the state board of land commissioners. In no case shall any interest or title of the state be made liable or subjected to any claim for any water tax, water assessment, or water charge by reason of the including of any of such state land in any irrigation district. All assessments or other payments for the cost of irrigating any such state land shall be paid by the lessees or purchasers thereof. In case of any lease or sale, the lessee or purchaser shall pay to the register on or before March 1 of each year, in addition to his rental or amount due on his contract of purchase, as the case may be, such an additional amount as will equal the district assessment for an equal amount of land within the district or such greater amount as the board may require, and the register shall pay such additional amounts to the proper officer authorized by law to receive payment of assessments within such district to apply on the cost of furnishing water for such state land. When the title to any such state land passes from the state,

the unpaid balance of the cost of furnishing water for the same shall at once become due and payable and attach as a lien thereon and be collected as an assessment of such irrigation district, in the same manner as assessments on other lands in the district.

Source: L. 11: p. 211, § 2. **C.L.** § 1191. **CSA:** C. 134, § 90. **CRS 53:** § 112-4-2. **C.R.S. 1963:** § 112-4-2.

Cross references: For irrigation district assessments, see § 37-41-124.

36-4-103. Payment by lessee or purchaser.

In order to provide payment for such water rights for state lands, the state board of land commissioners may agree that, when any state land for which irrigation is provided is leased or sold, the lessee or purchaser, as the case may be, shall pay the agreed value therefor, at such times and in such amounts and in such proportion as may be agreed upon by the state board of land commissioners. The state board of land commissioners has power to secure, to any such person, corporation, or irrigation district so furnishing water for the irrigation of state lands, the payment of the cost of such water rights upon such lands being leased or sold by the lessee or purchaser thereof. In no case shall the state board of land commissioners have any power to use any of the school fund, either principal or interest, for any such purpose.

Source: L. 11: p. 212, § 3. **C.L.** § 1192. **CSA:** C. 134, § 91. **CRS 53:** § 112-4-3. **C.R.S. 1963:** § 112-4-3.

36-4-104. Board may improve state land.

The state board of land commissioners is authorized to take, on behalf of and in the name of the state, as speedily as practicable, such action as may, in the judgment of the board, be necessary or desirable to irrigate and improve such lands belonging to the state, and lying in the San Luis valley and elsewhere, as may in the judgment of the board be susceptible of improvement by irrigation.

Source: L. 13: p. 588, § 1. **C.L.** § 1193. **CSA:** C. 134, § 92. **CRS 53:** § 112-4-4. **C.R.S. 1963:** § 112-4-4.

36-4-105. Water rights acquired - how.

Such action may be taken by initiating such water rights and systems for reservoirs, canals, and conduits, or by the purchase of existing water rights, systems for reservoirs, canals, and conduits, or an interest therein, including pumping plants, highways, and such other accessories as may, in the judgment of the board, be necessary or desirable to the successful accomplishment of the objects of sections 36-4-104 to 36-4-112.

Source: L. 13: p. 588, § 2. **C.L.** § 1194. **CSA:** C. 134, § 93. **CRS 53:** § 112-4-5. **C.R.S. 1963:** § 112-4-5.

36-4-106. Board may proceed - how.

In furtherance of such objects the board shall proceed in accordance with the irrigation laws of the state, insofar as the same are applicable, and may, if it elects, also proceed under the laws of the United States relating to the acquisition of such rights or easements over the public lands of the United States.

Source: L. 13: p. 588, § 3. **C.L.** § 1195. **CSA:** C. 134, § 94. **CRS 53:** § 112-4-6. **C.R.S. 1963:** § 112-4-6.

36-4-107. Departmental decisions.

In case such procedure, or any part thereof, is under the laws of the United States, the board shall not be bound or required to accept or concur in the action or decision, or failure or delay in action or decision of any departmental or other officer, agent, or employee of the United States, if in the judgment of the board the same is not in good faith, or is for the mere purpose of delay, or is adverse to the legal, constitutional, or inherent rights of the state; nor shall the board, in any event, accept or concur in any such action, decision, grant, or permit which is, or purports to be, revocable by the United States or by any departmental or other officer, agent, or employee of the United States at its discretion or without reasonable cause and opportunity to be heard.

Source: L. 13: p. 589, § 4. **C.L.** § 1196. **CSA:** C. 134, § 95. **CRS 53:** § 112-4-7. **C.R.S. 1963:** § 112-4-7.

36-4-108. Power of eminent domain.

In case of such procedure under the laws of the United States and in the event that any departmental or other officer, agent, or employee of the United States shall, in the judgment of the board, fail or refuse to act or decide within a reasonable time, or in bad faith, or for mere purpose of delay, or act or decide adversely to the legal, constitutional, or inherent rights of the state, upon any question involved and subject to his action or decision or shall obstruct, hinder, or interfere with the necessary occupancy or possession of the lands involved by the state, or any of its agents or employees, the board shall at once proceed to acquire the desired rights or easements, occupancy, or possession by invoking the power of eminent domain of the state. Such proceedings, including the right to enter upon the lands involved for the purpose of examination and survey, and the right of possession during the pendency of the action, and in all other respects, shall be as provided in articles 1 to 7 of title 38, C.R.S., in relation to eminent domain insofar as applicable and as supplemented and enlarged by sections 36-4-104 to 36-4-112.

Source: L. 13: p. 589, § 5. **C.L.** § 1197. **CSA:** C. 134, § 96. **CRS 53:** § 112-4-8. **C.R.S. 1963:** § 112-4-8.

Cross references: For additional provisions concerning condemnation of public lands belonging to the United States, see article 3 of title 38.

ANNOTATION

Law reviews. For article, "Eminent Domain in Colorado", see 29 Dicta 313 (1952).

36-4-109. Parties - process.

Such actions shall be brought in the name of the state as plaintiff, in the district court of any county in which the system of irrigation or any part thereof is located, or is to be located, and shall make as defendants thereto by proper name and official title, when known, such departmental and other officers, agents, and employees of the United States as have or claim to have jurisdiction, possession, charge, or control, or are exercising the same, over the lands involved or any part thereof, and such other officers, agents, and persons as the board may deem necessary or proper. The summons and other process shall be served and return made in the manner prescribed in articles 1 to 7 of title 38, C.R.S., or in any other manner required by the order of the court in the action.

Source: L. 13: p. 589, § 6. **C.L.** § 1198. **CSA:** C. 134, § 97. **CRS 53:** § 112-4-9. **C.R.S. 1963:** § 112-4-9.

36-4-110. Interests vested in state.

Upon the completion of service and return of summons or other process and the expiration of the time required by law or the order of the court before whom the action is pending for the appearance of the defendants, such defendants and all interests of the United States in the lands involved shall be deemed to be in court and subject to its jurisdiction, and thereafter, such proceedings shall be had as are required by the laws of the state, so far as applicable and as supplemented and enlarged by the provisions of sections 36-4-104 to 36-4-112, and, if the judgment of the court is in favor of the state, it shall vest in the state the rights and easements so adjudged over all public lands of the United States so involved, whether the same are reserved or unreserved, or are withdrawn temporarily or permanently for any purpose whatever, except those held for strictly governmental purposes, the jurisdiction over which has been ceded by the state to the United States.

Source: L. 13: p. 590, § 7. **C.L.** § 1199. **CSA:** C. 134, § 98. **CRS 53:** § 112-4-10. **C.R.S. 1963:** § 112-4-10.

36-4-111. Mandamus - injunction.

Nothing in sections 36-4-104 to 36-4-112 shall prevent the board or the state from proceeding in aid of the actions provided in said sections, or independently thereof, by mandamus, injunction, or other appropriate action, civil or criminal, to acquire irrigation rights and easements upon the public domain for the benefit of the state or its citizens or to protect and defend the same.

Source: L. 13: p. 590, § 8. **C.L.** § 1200. **CSA:** C. 134, § 99. **CRS 53:** § 112-4-11. **C.R.S. 1963:** § 112-4-11.

36-4-112. Attorney general to enforce.

The attorney general of the state is directed to give prompt and special attention to the enforcement of sections 36-4-104 to 36-4-112 and shall, when so requested by the board, give

advice and take such legal action as in his or her judgment is necessary or proper and may, if necessary, with the approval of the board and governor, employ not to exceed one lawyer or firm of lawyers to assist him or her in such legal action, but a retainer shall not be paid or other payment for such services made until after the services have been rendered or concurrently may be paid with the rendition of the services.

Source: L. 13: p. 590, § 9. **C.L.** § 1201. **CSA:** C. 134, § 100. **CRS 53:** § 112-4-12. **C.R.S. 1963:** § 112-4-12. **L. 2016:** Entire section amended, (HB 16-1094), ch. 94, p. 269, § 19, effective August 10.

ARTICLE 5

Sale and Improvement of State Lands

36-5-101. Sale of state lands - servicemen.
36-5-102. Sale - price per acre.
36-5-103. Applicants - qualifications - value.
36-5-104. Appraisal.
36-5-105. Amount of bid.
36-5-106. Payments - interest - expense.
36-5-107. Alienation of rights - restrictions.
36-5-108. Certificate of purchase - cancellation.
36-5-109. Board to make available list of lands.
36-5-110. Provision for prior purchasers.
36-5-111. Person not applicant may bid - when.
36-5-112. Terms of sale.

36-5-101. Sale of state lands - servicemen.

The state lands, including school lands, excepting only such as may be subject to leases restricting the sale thereof and then only excepting during the duration of such restrictions, shall be sold at public sale in the manner provided by law for the sale of state lands, except as provided in this article, upon the application for the sale thereof executed in accordance with the terms of this article by any permanent resident of the state who intends to settle upon or improve the same, and who was regularly inducted, enlisted, or commissioned in the United States Army, Navy, or Marine Corps and who served therein for a period of more than one month between April 1, 1898, and July 4, 1902, or between April 6, 1917, and November 11, 1918, and was

honorably discharged, and who is now, or may at any time, prior to the filing of said application, become a citizen of the United States, and who complies with the provisions of this article.

Source: L. 21: p. 660, § 1. **C.L.** § 1202. **CSA:** C. 134, § 101. **CRS 53:** § 112-5-1. **C.R.S. 1963:** § 112-5-1.

Cross references: For sale of state lands by the state board of land commissioners, see § 36-1-124.

ANNOTATION

Estoppel in pais. When the state is misled by a person's original application, and alters its position by preparing for a legal sale of part of its lands, an estoppel *in pais* results against the applicant who seeks to change his position at a later date, and it is not essential to the application of estoppel that the applicant intend to mislead the state. Mowry v. Jackson, 140 Colo. 197, 343 P.2d 833 (1959).

This section provides which war veterans (who shall comply with the provisions of this article) are entitled to come under the act. Mowry v. Jackson, 140 Colo. 197, 343 P.2d 833 (1959).

If a prospective purchaser does not apply as a veteran for the sale of state lands, and the state proceeds in accordance with his application, he may not on the day of the sale petition as a veteran for a fractional sale of state lands. Mowry v. Jackson, 140 Colo. 197, 343 P.2d 833 (1959).

If this section and § 36-5-103 are complied with, then § 36-5-104 provides that the land included in an application shall be appraised at its true value and no more. If said land shall be appraised at more than $7,500, enough land, by legal subdivisions or such fractions thereof as the state board of land commissioners shall approve, shall be excluded by the applicant to bring the value of the remainder below $7,500. Mowry v. Jackson, 140 Colo. 197, 343 P.2d 833 (1959).

No reasonable interpretation of § 36-5-104 requires the board to divide land on a sale date unless it has prior notice of a request in accordance with this section and § 36-5-103. Mowry v. Jackson, 140 Colo. 197 343 P.2d 833 (1959).

36-5-102. Sale - price per acre.

All of the lands shall be sold at public sale at not less than three dollars and fifty cents per acre, to the highest and best bidder, and all general laws of this state and rules of the state board of

land commissioners applicable to the sale and disposition of state lands not in conflict with the provisions of this article shall apply to and govern in all respects all sales and proceedings held under this article.

Source: L. 21: p. 661, § 2. **C.L.** § 1203. **CSA:** C. 134, § 102. **CRS 53:** § 112-5-2. **C.R.S. 1963:** § 112-5-2.

Cross references: For terms of sale, see § 36-5-112.

36-5-103. Applicants - qualifications - value.

In addition to the matters contained in other applications for the sales of state lands, applications under this article shall contain and be accompanied by proof, satisfactory to the state board of land commissioners and conclusive beyond reasonable doubt, of the applicant's qualifications and the affidavit of the applicant that such application is made in good faith for the purpose of acquiring the land for himself only and for the purpose of settling upon or improving the same. No person shall be entitled or allowed to make more than one application under this article, and no application shall include more land than the applicant shall estimate to be worth seven thousand five hundred dollars. The lands purchased under this article need not be contiguous if the state board of land commissioners approves a sale of noncontiguous lands.

Source: L. 21: p. 661, § 3. **C.L.** § 1204. **CSA:** C. 134, § 103. **CRS 53:** § 112-5-3. **C.R.S. 1963:** § 112-5-3.

ANNOTATION

Estoppel in pais. When the state is misled by a person's original application, and alters its position by preparing for a legal sale of part of its lands, an estoppel *in pais* results against the applicant who seeks to change his position at a later date, and it is not essential to the application of estoppel that the applicant intended to mislead the state. Mowry v. Jackson, 140 Colo. 197, 343 P.2d 833 (1959).

Where an applicant does not comply with the veteran's statute in his original application, he cannot be heard to complain on the date set for sale, in accordance with his own request, that the rules of the sale should be changed. He has by his conduct estopped himself from claiming purchase rights to particular land as a veteran. Mowry v. Jackson, 140 Colo. 197, 343 P.2d 833 (1959).

If § 36-5-101 and this section are complied with, then § 36-5-104 provides that the land included in an application shall be appraised at its true value and no more. If said land shall be appraised at more than $7,500, enough land, by legal subdivisions or such fractions thereof as the state board of land commissioners shall approve, shall be excluded by the applicant to bring the value of the remainder below $7,500. Mowry v. Jackson, 140 Colo. 197, 343 P.2d 833 (1959).

No reasonable interpretation of § 36-5-104 requires the board to divide land on a sale date unless it has prior notice of a request in accordance with § 36-5-101 and this section. Mowry v. Jackson, 140 Colo. 197, 343 P.2d 833 (1959).

36-5-104. Appraisal.

The land included in said application shall be appraised at its true value and no more. If said land is appraised at more than seven thousand five hundred dollars, enough land, by legal subdivisions or such fractions thereof as the state board of land commissioners shall approve, shall be excluded by the applicant to bring the value of the remainder below seven thousand five hundred dollars.

Source: L. 21: p. 661, § 4. **C.L.** § 1205. **CSA:** C. 134, § 104. **CRS 53:** § 112-5-4. **C.R.S. 1963:** § 112-5-4.

ANNOTATION

Estoppel in pais. When the state is misled by a person's original application, and alters its position by preparing for a legal sale of part of its lands, an estoppel *in pais* results against the applicant who seeks to change his position at a later date; and it is not essential to the application of estoppel that the applicant intended to mislead the state. Mowry v. Jackson, 140 Colo. 197, 343 P.2d 833 (1959).

Where an applicant does not comply with the veteran's statute in his original application, he cannot be heard to complain on the date set for sale, in accordance with his own request, that the rules of the sale should be changed; he has by his conduct estopped himself from claiming purchase rights to particular land as a veteran. Mowry v. Jackson, 140 Colo. 197, 343 P.2d 833 (1959).

No reasonable interpretation of this section requires the board to divide land on a sale date unless it has prior notice of a request in accordance with §§ 36-5-101 and 36-5-103. Mowry v. Jackson, 140 Colo. 197, 343 P.2d 833 (1959).

36-5-105. Amount of bid.

No land shall be sold upon an application filed under this article unless the applicant shall bid therefor an amount at least equal to the appraised value thereof. Applicants and all other persons purchasing at said sale may bid therefor in any amount in excess of said appraised value.

Source: L. 21: p. 661, § 5. **C.L.** § 1206. **CSA:** C. 134, § 105. **CRS 53:** § 112-5-5. **C.R.S. 1963:** § 112-5-5.

36-5-106. Payments - interest - expense.

Payment for the lands shall in all cases be made as provided for by law; but, if the person upon whose application said lands are offered for sale is the successful bidder, then, and not otherwise, the following terms for payment shall apply: The sum bid, or any part thereof, shall not be due until twenty years from the date of said sale, when it shall be paid in full. All or any portion of the sum bid may be payable at any semiannual period. All sums bid shall bear interest at six percent per annum until paid. The interest shall be due and payable annually. Payment of the first three payments of said interest shall be deferrable at the option of such purchasing applicant until the end of the third year. The state board of land commissioners has the power, but shall be under no obligation, to grant other extensions of time for the payment of interest, and all such overdue interest shall draw interest at six percent until paid. The expenses of such sale shall in all cases be paid by the applicant.

Source: L. 21: p. 662, § 6. **C.L.** § 1207. **CSA:** C. 134, § 106. **CRS 53:** § 112-5-6. **C.R.S. 1963:** § 112-5-6.

Cross references: For terms of payment on the sale of state lands, see § 36-5-112.

36-5-107. Alienation of rights - restrictions.

Until a patent for the land issues, the certificate of purchase issued at such sale and the interest acquired by any purchaser of the lands thereunder shall not be subject to transfer or alienation, lien, or mortgage, voluntary or involuntary, but the interest acquired shall descend to the heirs of the purchasers as in other cases. After the patent issues, the ownership and power of disposition of said lands shall be absolute. No patent shall issue prior to five years after the date of such sale, nor until said land is fully paid for.

Source: L. 21: p. 662, § 7. **C.L.** § 1208. **CSA:** C. 134, § 107. **CRS 53:** § 112-5-7. **C.R.S. 1963:** § 112-5-7.

36-5-108. Certificate of purchase - cancellation.

The state board of land commissioners may cancel any certificate of purchase issued under this article because of a false or fraudulent application; a voluntary alienation, transfer, mortgage, or placing of a lien upon said land or the certificate of purchase; or for failure to settle upon or improve said land within a period of two years from the date of sale; or for failure to make payments of principal or interest as the same become due. Action shall be taken only after reasonable notice to the person named in said certificate, which action is subject to review by the district court of the county where such lands are situate, said proceeding for review to begin within sixty days from the date of the order of revocation.

Source: L. 21: p. 663, § 8. **C.L.** § 1209. **CSA:** C. 134, § 108. **CRS 53:** § 112-5-8. **C.R.S. 1963:** § 112-5-8.

36-5-109. Board to make available list of lands.

The state board of land commissioners shall publish, subject to the approval and control of the executive director of the department of natural resources, a list of all lands in this state open to sale under this article, together with any available description matter or information regarding the same, and such information regarding the laws governing sales under this article as it and the executive director of the department of natural resources may deem advisable.

Source: L. 21: p. 663, § 9. **C.L.** § 1210. **CSA:** C. 134, § 109. **CRS 53:** § 112-5-9. **C.R.S. 1963:** § 112-5-9. **L. 64:** p. 166, § 122.

36-5-110. Provision for prior purchasers.

Any person possessing the qualifications of an applicant as defined in section 36-5-101, who on or before April 7, 1921, purchased any state lands and who has not completed payment for the same, may, if he elects, file a declaration of acceptance of the provisions of this article and proof of his qualifications and shall thereafter be considered and dealt with as an applicant under this

article and shall be subject to all the limitations and receive the benefit provided for in this article.

Source: L. 21: p. 663, § 10. **C.L.** § 1211. **CSA:** C. 134, § 110. **CRS 53:** § 112-5-10. **C.R.S. 1963:** § 112-5-10.

36-5-111. Person not applicant may bid - when.

Any person possessing the qualifications of an applicant, as defined in section 36-5-101, may bid at the sale of any state lands held pursuant to any law governing the sale thereof. If at the time of the sale the applicant pays all the costs thereof and deposits with the state board of land commissioners the additional sum of fifty dollars and declares in writing that he is so qualified and intends to purchase the lands in accordance with the terms of this article, he shall, if he is a successful bidder at said sale, be granted thirty days within which to furnish proof of his qualifications to purchase. If he, within thirty days, furnishes the proof of his qualifications in accordance with the provisions of this article, he shall be deemed to have purchased the land upon an application under the provisions of this article and shall be subject to all the benefits and limitations of an applicant under this article, and a certificate of purchase shall then issue to him. In such case he may also purchase, upon an application under this article, lands additional to those purchased at such sale sufficient to make the total value of land purchased by him, in accordance with the provisions of this article, seven thousand five hundred dollars. If proof of said bidder's qualifications is furnished as provided in this section, said sum of fifty dollars shall be applied upon the purchase price of the lands. If proof of the bidder's qualifications is not furnished within thirty days, there shall be a resale of the lands upon the signed application, and said deposit of fifty dollars shall be paid by the state board of land commissioners to the person who was the next to the highest bidder at such sale.

Source: L. 21: p. 664, § 11. **C.L.** § 1212. **CSA:** C. 134, § 111. **CRS 53:** § 112-5-11. **C.R.S. 1963:** § 112-5-11.

36-5-112. Terms of sale.

On all sales of state lands, the terms of payment shall be as follows: Not less than twenty-five percent of the purchase price shall be paid in cash at the time of the sale, and the balance shall be made payable upon an amortization plan based on interest at not less than four percent per annum and providing for the payment of semiannual installments sufficient in amount to extinguish such balance at the end of thirty-three years from date of sale; but, in cases where the

total improvements on the land sold are in excess of forty percent of the total value of the land, the state board of land commissioners may, in its discretion, reduce the amount which shall be paid in cash at the time of the sale to ten percent of the purchase price. The purchaser shall have the privilege, on any installment date, of paying on his original obligation, in addition to the installment then due, the sum necessary to reduce the original obligation by one hundred dollars or any multiple thereof, but in such event, except when any such additional payment is sufficient to discharge the purchaser's entire debt, the balance remaining due from the purchaser shall remain amortized for the remainder of said thirty-three-year period on the same interest basis, with adjusted semiannual installments. Any certificates of purchase outstanding on lands sold on or before May 2, 1929, may, when the state board of land commissioners deems it advisable, and upon application of the holder thereof, be converted to certificates of purchase on the amortization plan. The board shall have the right to charge such fees under this article as it may deem reasonable.

Source: L. 29: p. 520, § 1. **CSA:** C. 134, § 112. **CRS 53:** § 112-5-12. **L. 55:** p. 685, § 1. **C.R.S. 1963:** § 112-5-12.

ARTICLE 6

Purchase by Veterans

36-6-101 and 36-6-102. (Repealed)

Source: L. 96: Entire article repealed, p. 564, § 26, effective April 24.

Editor's note: This article was numbered as article 2 of chapter 112, C.R.S. 1963. For amendments to this article prior to its repeal in 1996, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

Forestry

ARTICLE 7

Forestry

PART 1
STATE BOARD OF LAND COMMISSIONERS

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36-7-401 to 36-7-406. (Repealed)

PART 1

STATE BOARD OF LAND COMMISSIONERS

36-7-100.3. Definitions.

As used in this article 7, unless the context otherwise requires:

(1) "Board" means the state board of land commissioners.

Source: L. 2025: Entire section added, (SB 25-275), ch. 377, p. 2098, § 294, effective August 6.

36-7-101. Tree defined.

For the purposes of this article, the word "tree" means all vegetable growth of a woody texture of any size whatsoever. No lands contemplated in this law shall be leased for any purpose whatsoever that will destroy the tree growth.

Source: L. 01: p. 188, § 9. **R.S. 08:** § 2634. **C.L.** § 1221. **CSA:** C. 134, § 121. **CRS 53:** § 112-7-6. **C.R.S. 1963:** § 112-7-6.

36-7-102. Trees not to be cut.

No trees needed to conserve the snows, ice, or water of any irrigation district shall be cut from any part of the public domain, except as provided in this article.

Source: L. 01: p. 185, § 1. **R.S. 08:** § 2626. **C.L.** § 1213. **CSA:** C. 134, § 115. **CRS 53:** § 112-7-1. **C.R.S. 1963:** § 112-7-1.

Cross references: For irrigation district laws, see articles 41 to 50 of title 37.

ANNOTATION

For treble damages for wrongfully cutting trees under a former statute, see Hallack v. Stockdale, 14 Colo. 198, 23 P. 340 (1890).

36-7-103. Disposition of timber on state lands.

(1) The state board of land commissioners is authorized to sell and otherwise dispose of timber on state lands; to secure the maximum possible amount therefrom, based upon cruised and appraised quantities thereon, location, accessibility, and market conditions; to issue permits of authority for timber cuttings; and to require cash deposits in advance to apply on such timber-cutting permits. In cases in which the appraised value of timber involved in any proposed sale exceeds five thousand dollars, competitive bids shall be received by the board, after call for such bids has been advertised over a thirty-day period in three issues of a newspaper of general circulation in each county in which the timber is located.

(2) The board, when contracting with the Colorado state forest service, shall direct the service to use the appropriate methods necessary to ensure proper management of state trust lands whenever the board contracts for the disposition from state lands of timber that:

(a) Has been infested with bark beetles; or

(b) Is harvested from a forest whose health is otherwise in decline or from which the board anticipates declining revenues due to forest health factors.

Source: L. 37: p. 572, § 1. **CSA:** C. 134, § 119(1). **CRS 53:** § 112-7-2. **C.R.S. 1963:** § 112-7-2. **L. 65:** p. 922, § 3. **L. 86:** Entire section amended, p. 1078, § 1, effective March 26. **L. 2011:** Entire section amended, (SB 11-267), ch. 302, p. 1454, § 3, effective June 8. **L. 2025:** (1) amended, (SB 25-275), ch. 377, p. 2098, § 295, effective August 6.

Cross references: In 2011, this section was amended by the "Forest Health Act of 2011". For the short title and the legislative declaration, see section 1 of chapter 302, Session Laws of Colorado 2011.

36-7-104. Rules regulating sale.

The board shall issue rules regulating the following: The sale of timber; timber protection of the young growth and the remaining stand in accordance with approved forestry practice; the filing of applications by purchasers; the issuing of permits of authority for cuttings; the cruising and appraisement of timber quantities to be sold; and the expenses to be paid by the timber purchaser.

Source: L. 37: p. 573, § 2. **CSA:** C. 134, § 119(2). **CRS 53:** § 112-7-3. **C.R.S. 1963:** § 112-7-3.

36-7-105. Protection from fire.

The board shall endeavor by every means at its disposal to protect the state's timber lands from fire menace and destructive timber fires. It shall cooperate with the United States forest service and otherwise for such protection when timber fires occur and hire all necessary help, laborers, or firefighters for the extinguishing of such fires. It shall construct within the state forest lands and on its exterior boundary lines locked fire booths containing necessary apparatus for fighting fires and post in conspicuous places within the area and outside on the exterior boundary lines of the state's forest lands, fire warnings and supply all modern fire fighting appliances and equipment necessarily required in approved forestry protection practice.

Source: L. 37: p. 573, § 3. **CSA:** C. 134, § 119(3). **CRS 53:** § 112-7-4. **C.R.S. 1963:** § 112-7-4.

36-7-106. Bond of person cutting trees.

The state board of land commissioners shall require of all persons cutting trees upon state lands a bond in a sufficient amount, with good and approved security, for the carrying out in good faith of the provisions of part 2 of this article.

Source: L. 01: p. 188, § 8. **R.S. 08:** § 2633. **C.L.** § 1220. **CSA:** C. 134, § 120. **CRS 53:** § 112-7-5. **C.R.S. 1963:** § 112-7-5.

36-7-107. District attorneys to prosecute.

The district attorneys of the various judicial districts of the state are directed to prosecute in the name of the state all cases arising under this article.

Source: L. 01: p. 190, § 17. **R.S. 08:** § 2642. **C.L.** § 1229. **CSA:** C. 134, § 129. **CRS 53:** § 112-7-8. **C.R.S. 1963:** § 112-7-8.

PART 2

COLORADO STATE FOREST

36-7-201. Colorado state forest created - penalty.

(1) There is hereby created the Colorado state forest, to consist of a consolidated area of forest lands to be selected by the state board of land commissioners, through exchange with the United States government.

(2) The state board of land commissioners shall be authorized to exchange school, university, penitentiary, internal improvement, agricultural college, or any other state lands, either within or without the United States national forest, for other lands of at least equal area and appraised value, for the purpose of this section.

(3) The state forest lands, when so selected, from time to time, by formal resolution of the board, shall be set aside and sale of any parcel or part thereof prohibited. The withdrawal from sale of such lands shall be so designated upon the records and plat books of the board in accordance with this section.

(4) The board is authorized with the administration of the state forest lands; the leasing of the same for grazing, agricultural, mineral, and all other purposes to secure the maximum rental and revenue therefrom; to provide for and extend the practice of intensive forestry for its

preservation; to sell, cut, and remove timber therefrom in accordance with good forestry practice; and to provide for protection against fire hazard.

(5) The board shall prescribe and issue rules and regulations for the administration and leasing of such lands and for the preservation, conservation, cutting, and sale of timber thereon; and for the improvement of such lands, the building of trails, roads, and otherwise, and for the expense thereof.

(6) The general assembly shall, from time to time, provide for the necessary expense of the administration and improvement of the state forest lands, by an appropriation for the operation of the board.

(7) Any person or corporation who shall trespass, commit depredations, or by negligence be responsible for any fires, or who shall cut or remove any timber from the state forest lands without authority so to do from the board, commits a class 2 misdemeanor.

Source: L. 31: pp. 350, 351, §§ 1-7. **CSA:** C. 134, § 131. **CRS 53:** § 112-7-10. **C.R.S. 1963:** § 112-7-10. **L. 2021:** (7) amended, (SB 21-271), ch. 462, p. 3289, § 670, effective March 1, 2022.

36-7-202. Board to designate state forests.

The board is authorized to designate as state forests units of land suitable in character and size for such purposes and to administer such state forests for the sustained yield of forest and range products therefrom. All moneys collected or acquired by the board from fees derived from the lease or rental of surface rights for grazing, commercial, or recreational purposes of state school trust lands located in state forests shall be paid over to the state treasurer to be deposited and transferred as follows: Seventy-five percent to the public school income fund of the state and twenty-five percent to the county public school fund of the county in which the land from which the moneys were derived is located.

Source: L. 37: p. 937, § 6. **CSA:** C. 134, § 131(6). **L. 41:** p. 598, § 1. **CRS 53:** § 112-7-16. **C.R.S. 1963:** § 112-7-11. **L. 79:** Entire section amended, p. 1348, § 1, effective May 25.

Cross references: For the public school income fund, as credited to the state public school fund, see § 22-54-114; for the public school fund, see §§ 3 and 5 of art. IX, Colo. Const., and article 41 of title 22; for the county public school fund, see § 22-54-113.

PART 3

ROADLESS AREAS REVIEW TASK FORCE

36-7-301 to 36-7-304. (Repealed)

Editor's note: (1) This part 3 was added in 2005 and was not amended prior to its repeal in 2007. For the text of this part 3 prior to 2007, consult the 2006 Colorado Revised Statutes.

(2) Section 36-7-303 provided for the repeal of this part 3 upon notification from the governor that the governor had delivered management recommendations to the national forest service. The management recommendations were delivered on November 13, 2006. (See L. 2005, p. 1489, § 2.)

PART 4

WILDFIRE RISK REDUCTION GRANT PROGRAM

36-7-401 to 36-7-406. (Repealed)

Editor's note: (1) This part 4 was added in 2013. For amendments to this part 4 prior to its repeal in 2017, consult the 2017 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

(2) Section 36-7-406 provided for the repeal of this part 4, effective December 31, 2017. (See L. 2017, p. 97.)

ARTICLE 8

Floating Timber on Stream

36-8-101 to 36-8-110. (Repealed)

Source: L. 95: Entire article repealed, p. 200, § 18, effective April 13.

Editor's note: This article was numbered as article 8 of chapter 112, C.R.S. 1963. For amendments to this article prior to its repeal in 1995, consult the Colorado statutory research

explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

Natural Areas

ARTICLE 10

Colorado Natural Areas

36-10-101 to 36-10-113. (Repealed)

Source: L. 88: Entire article repealed, p. 1180, § 4, effective March 23.

Editor's note: This article was added in 1977. For amendments to this article prior to its repeal in 1988, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

Cross references: For current provisions concerning Colorado natural areas, see article 33 of title 33.

WEATHER MODIFICATION

ARTICLE 20

Weather Modification

36-20-101. Short title.
36-20-102. Legislative declaration.
36-20-103. Declaration of rights.
36-20-104. Definitions.
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36-20-106. Advisory committee - appointment - duties - sunset review. (Repealed)
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36-20-110. Issuance of license. (Repealed)
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36-20-112. Permit required - when issued.
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36-20-118. Operations affecting weather in other states. (Repealed)
36-20-119. Suspension - revocation - refusal to renew.
36-20-120. Operation under permit. (Repealed)
36-20-121. Hearing required.
36-20-122. Governmental immunity.
36-20-123. Legal recourse - liability - damages.
36-20-124. Permit as defense in actions.
36-20-125. Judicial review.
36-20-126. Penalties.
36-20-127. Repeal of article.

36-20-101. Short title.

This article shall be known and may be cited as the "Weather Modification Act of 1972".

Source: L. 72: R&RE, p. 632, § 1. **C.R.S. 1963:** § 151-1-1.

36-20-102. Legislative declaration.

The general assembly declares that the state of Colorado recognizes that economic benefits can be derived for the people of the state from weather modification. Operations, research, experimentation, and development in the field of weather modification shall therefore be encouraged. In order to minimize possible adverse effects, weather modification activities shall be carried on with proper safeguards, and accurate information concerning such activities shall be made available for purposes of regulation. While recognizing the value of research and development of weather modification techniques by governmental agencies, the general assembly finds and declares that the actual practice of weather modification, whether at public or private expense, is properly a commercial activity which the law should encourage to be carried out, whenever practicable, by private enterprise.

Source: L. 72: R&RE, p. 632, § 1. **C.R.S. 1963:** § 151-1-2.

36-20-103. Declaration of rights.

The general assembly declares that the state of Colorado claims the right to all moisture suspended in the atmosphere which falls or is artificially induced to fall within its borders. Said moisture is declared to be the property of the people of this state, dedicated to their use pursuant to sections 5 and 6 of article XVI of the Colorado constitution and as otherwise provided by law. It is further declared that the state of Colorado also claims the prior right to increase or permit the increase of precipitation by artificial means for use in Colorado. The state of Colorado also claims the right to modify weather as it affects the people of the state of Colorado and to permit such modification by activity within Colorado.

Source: L. 72: R&RE, p. 632, § 1. **C.R.S. 1963:** § 151-1-3.

36-20-104. Definitions.

As used in this article, unless the context otherwise requires:

(1) Repealed.

(2) "Director" means the executive director of the department of natural resources, as created by article 33 of title 24, C.R.S.

(2.5) "Ground-based winter cloud seeding" means the seeding of clouds between the months of November through May of each year by the use of ground generation equipment.

(3) (Deleted by amendment, L. 96, p. 966, § 1, effective July 1, 1996.)

(4) "Operation" means the performance in Colorado of any activity to attempt to modify or having the effect of modifying natural weather conditions other than usual and customary activities not conducted primarily for weather modification and having only a minor effect on natural weather conditions.

(4.5) "Operator" means any person who conducts a weather modification operation in Colorado.

(5) "Permit" means a certification of project approval to conduct a specific weather modification operation within the state under the conditions and within the limitations required and established under the provisions of this article.

(6) "Person" has the same meaning as that provided in section 2-4-401 (8), C.R.S.

(7) "Publication" or "publish" means a minimum of at least two consecutive weekly legal notices in at least one newspaper of general circulation in the county or counties, or portions thereof, included within the proposed operation. It shall not be necessary that notice be made on

the same day of the week in each of the two weeks, but not less than one week shall intervene between the first publication and the last publication, and notice shall be complete on the date of the last publication. If there is no such newspaper, notice shall be by posting in at least three public places within the county, or portions thereof, included within a proposed operation. Publication of notices provided for in this article may be made, at the discretion of the director, by notices broadcast over any or all standard radio, FM radio, television stations, and cable television. Such broadcast notices shall make reference to locations or publications wherein details of the subject matter of the notices are located.

(8) "Research and development" means theoretical analysis, exploration, experimentation, and the extension of investigative findings and theories of a scientific or technical nature into practical application for experimentation and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes both in the laboratory and in the atmosphere.

(9) "Research and development operation" or "research and development project" means an operation which is conducted solely to advance scientific and technical knowledge in weather modification. Research and development operations may be conducted by state or federal agencies, state institutions of higher education, and bona fide nonprofit research corporations or by commercial operators under contracts with such entities solely for research purposes.

(10) "Weather modification" means any program, operation, or experiment intended to induce changes in the composition, behavior, or dynamics of the atmosphere by artificial means.

Source: L. 72: R&RE, p. 633, § 1. **C.R.S. 1963:** § 151-1-4. **L. 73:** p. 1535, § 1. **L. 92:** (1) repealed, p. 955, § 8, effective March 19; (2.5) added, p. 1912, § 1, effective July 1. **L. 96:** (3) and (6) amended and (4.5) added, p. 966, § 1, effective July 1.

Cross references: For publication of legal notices, see part 1 of article 70 of title 24.

36-20-105. Administration.

(1) The executive director of the department of natural resources is hereby charged with the administration of this article.

(2) The director shall issue all permits provided for in this article. The director is hereby empowered to issue rules and regulations the director finds necessary to facilitate the implementation of this article, and the director is authorized to execute and administer all other provisions of this article pursuant to the powers and limitations contained in this article.

Source: L. 72: R&RE, p. 634, § 1. **C.R.S. 1963:** § 151-1-5. **L. 96:** (2) amended, p. 966, § 2, effective July 1.

36-20-106. Advisory committee - appointment - duties - sunset review. (Repealed)

Source: L. 72: R&RE, p. 634, § 1. **C.R.S. 1963:** § 151-1-6. **L. 86:** (4) added, p. 425, § 61, effective March 26. **L. 87:** (2)(a) amended, p. 975, § 96, effective March 13. **L. 92:** Entire section repealed, p. 956, § 9, effective March 19.

36-20-107. Duties of the director - rules.

(1) The director shall promulgate rules, in accordance with article 4 of title 24, C.R.S., necessary to effectuate the purposes of this article.

(2) and (3) Repealed.

Source: L. 72: R&RE, p. 635, § 1. **C.R.S. 1963:** § 151-1-7. **L. 73:** p. 1535, § 2. **L. 92:** (1) and (2)(a) amended, p. 957, § 10, effective March 19; (2)(b) amended, p. 1912, § 2, effective July 1. **L. 96:** (2) repealed, p. 967, § 3, effective July 1. **L. 2011:** (1) amended and (3) added, (SB 11-090), ch. 301, p. 1449, § 4, effective June 8.

Editor's note: Subsection (3)(b) provided for the repeal of subsection (3), effective January 1, 2013. (See L. 2011, p. 1449.)

36-20-108. Powers of the director.

(1) The director may issue permits applicable to specific weather modification operations. For each operation, said permit shall describe the specific geographic area authorized to be affected and shall provide a specific time period during which the operation may continue, which period may be discontinuous but for operations other than ground-based winter cloud seeding may not have a total duration exceeding one calendar year from the day of its issuance. A separate permit shall be required for each operation. Permits for ground-based winter cloud seeding shall have a duration of five years. If a permit for a ground-based winter cloud seeding operation is renewed, the second permit shall have a duration of five years and any third or

subsequent permit shall have a duration of ten years. The director shall issue only one active permit for activities in any geographic area if two or more projects therein might adversely interfere with each other.

(2) The director shall, by regulation or order, establish standards and instructions to govern the carrying out of research and development or commercial operations in weather modification that the director considers necessary or desirable to minimize danger to land, health, safety, people, property, or the environment.

(3) (a) The director may make any studies or investigations, obtain any information, and hold any hearings the director considers necessary or proper to assist the director in exercising the director's power or administering or enforcing this article or any regulations or orders issued under this article.

(b) All hearings conducted under this article shall be conducted pursuant to the provisions of this article and article 4 of title 24, C.R.S., and the director or the director's designee shall conduct any hearing required by this article or the director may, by the director's own action, appoint an administrative law judge pursuant to part 10 of article 30 of title 24, C.R.S., subject to appropriations made to the department of personnel, to conduct any hearing required by this article. Any hearing shall be conducted under the provisions and within the limitations of article 4 or title 24, C.R.S., and this article.

(4) (a) The director may, upon approval of the governor, represent the state in matters pertaining to plans, procedures, or negotiations for interstate compacts relating to weather modification, but, before any such compacts may be implemented, the consent of the general assembly must be obtained.

(b) The director may represent the state and assist counties, municipalities, and public agencies in contracting with commercial operators for the performance of weather modification or cloud-seeding operations. Counties, municipalities, and other public agencies of this state are hereby granted the authority to contribute to and participate in weather modification.

(5) In order to assist in expanding the theoretical and practical knowledge of weather modification, the director may participate in and promote continuous research and development in:

(a) The theory and development of weather modification, including processes, materials, ecological effects, and devices related to such matters;

(b) The utilization of weather modification for agricultural, industrial, commercial, municipal, recreational, and other purposes;

(c) The protection of life and property and the environment during research and operational activities.

(6) The director may conduct and may contract for research and development activities relating to the purposes of this article.

(7) The director, subject to limits of the department of natural resources' appropriation, may hire any technical or scientific experts or any staff deemed necessary to carry out the provisions of this article.

(8) Subject to any limitations imposed by law, the department of natural resources, acting through the director, may accept federal grants, private gifts, and donations from any other source. Unless the use of the money is restricted, or subject to any limitations provided by law, the director may:

(a) Spend it for the administration of this article;

(b) By grant, contract, or cooperative arrangement, use the money to encourage research and development by a public or private agency; or

(c) Use the money to contract for weather modification operations.

(9) The director shall prescribe those measurements reasonably necessary to be made prior to and during all operations to determine the probable effects of an operation.

Source: L. 72: R&RE, p. 636, § 1. **C.R.S. 1963:** § 151-1-8. **L. 76:** (3)(b) amended, p. 587, § 27, effective May 24. **L. 78:** (3)(b) amended, p. 274, § 99, effective May 23. **L. 87:** (3)(b) amended, p. 975, § 97, effective March 13. **L. 92:** (1), (3)(b), and (9) amended, p. 957, § 11, effective March 19; (1), (2), and (3)(a) amended, p. 1913, § 3, effective July 1. **L. 95:** (3)(b) amended, p. 666, § 105, effective July 1. **L. 96:** (1) and (3)(b) amended, p. 967, § 4, effective July 1.

36-20-109. Permit required - exemptions.

(1) No person may engage in activities for weather modification and control without a weather modification permit issued by the director; nor may any person engage in any activities in violation of any term or condition of the permit.

(2) The director, to the extent he considers exemptions practical, may provide by regulation for exempting the following activities from the fee requirements of this article:

(a) Research, development, and experiments conducted by state and federal agencies, state institutions of higher education, and bona fide nonprofit research organizations;

(b) Laboratory research and experiments; and

(c) Activities of an emergency nature for protection against fire, frost, hail, sleet, smog, fog, or drought.

Source: L. 72: R&RE, p. 637, § 1. **C.R.S. 1963:** § 151-1-9. **L. 96:** (1) amended, p. 968, § 5, effective July 1.

36-20-110. Issuance of license. (Repealed)

Source: L. 72: R&RE, p. 637, § 1. **C.R.S. 1963:** § 151-1-10. **L. 96:** Entire section repealed, p. 968, § 6, effective July 1.

36-20-111. License fee - expiration. (Repealed)

Source: L. 72: R&RE, p. 638, § 1. **C.R.S. 1963:** § 151-1-11. **L. 96:** Entire section repealed, p. 968, § 7, effective July 1.

36-20-112. Permit required - when issued.

(1) The director, in accordance with regulations, shall issue a weather modification permit to each applicant who:

(a) (Deleted by amendment, L. 96, p. 969, § 8, effective July 1, 1996.)

(b) Pays the permit fee, if applicable;

(c) Furnishes proof of financial responsibility adequate to meet obligations reasonably likely to be attached to or result from the proposed weather modification operation. Such proof of financial responsibility may, but at the discretion of the director shall not be required to, be shown by presentation of proof of a prepaid insurance policy with an insurance company licensed to do business in Colorado, which insurance policy shall insure liabilities in an amount set by the director and provide a cancellation clause with a thirty-day notice to the director, or by filing with the director an individual, schedule, blanket, or other corporate surety bond in an amount approved by the director. The director shall not require proof of financial responsibility in excess of the limitations imposed by section 24-10-114, C.R.S., from any political subdivision of the state authorized to conduct ground-based winter cloud seeding weather modification activities pursuant to this article.

(d) Submits a complete operational plan for each proposed project prepared by the operator in control which includes a specific statement of objectives, a map of the proposed operating area which specifies the primary target area and shows the area reasonably expected to be affected, the name and address of the operator, the nature and object of the intended operation, the person or organization on whose behalf it is to be conducted, and a statement showing any expected effect upon the environment and methods of determining and evaluating the same. This operational plan shall be placed on file with the director and with any other agent as the director may require.

(e) Publishes a notice of intent to modify weather in the counties to be affected by the weather modification program before the operator secures a permit and before beginning operations. The published notice shall designate the primary target area and indicate the general area which might be affected. It shall also indicate the expected duration and intended effect and state that complete details are available on request from the operator or the director or from the other agent specified by the director. The publication shall also specify a time and place, not more than one week following the completion of publication, for a hearing on the proposed project. Proof of publication shall be furnished to the director by the operator.

(f) Receives approval under the criteria set forth in subsection (3) of this section;

(g) Provides the information that is requested by the director regarding the qualifications, education, and experience of the operator.

(2) Before a permit may be issued, the director or his authorized agents shall hold a public hearing on the proposed project. Said hearing shall be held in a place within a reasonable proximity of the area expected to be affected by the proposed operation.

(3) No permit may be issued unless the director determines, based on the information provided in the operational plan and on the testimony provided at the public hearing:

(a) (Deleted by amendment, L. 96, p. 969, § 8, effective July 1, 1996.)

(b) That the project is reasonably expected to benefit the people in said area or benefit the people of the state of Colorado;

(c) That the project is scientifically and technically feasible;

(d) (Deleted by amendment, L. 96, p. 969, § 8, effective July 1, 1996.)

(e) That the project does not involve a high degree of risk of substantial harm to land, people, health, safety, property, or the environment;

(f) That the project is designed to include adequate safeguards to prevent substantial damage to land, water rights, people, health, safety, or to the environment;

(g) That the project will not adversely affect another project; and

(h) That the project is designed to minimize risk and maximize scientific gains or economic benefits to the residents of the area or the state.

Source: L. 72: R&RE, p. 638, § 1. **C.R.S. 1963:** § 151-1-12. **L. 92:** (1)(a) and (1)(c) amended, p. 1914, § 4, effective July 1. **L. 96:** IP(1), (1)(a), (1)(d), (1)(e), (3)(a), (3)(c), and (3)(d) amended and (1)(g) added, p. 969, § 8, effective July 1.

36-20-113. Permit fee.

(1) The fee for each permit or the renewal thereof under section 36-20-114 shall be at least one hundred dollars. If the operation is a commercial project, the director shall set a fee that is sufficient to pay the direct costs of review of the permit application, public hearings regarding the application, and monitoring of permit operations under this article. Said fees are intended to provide at least a portion of the moneys necessary to administer this article. Said fees shall be deposited into the Colorado water conservation board construction fund created in section 37-60-121, C.R.S. Said fees are hereby continuously appropriated to the department of natural resources, for allocation to the Colorado water conservation board for purposes established by this section.

(2) (Deleted by amendment, L. 2006, p. 957, § 16, effective July 1, 2006.)

Source: L. 72: R&RE, p. 639, § 1. **C.R.S. 1963:** § 151-1-13. **L. 96:** Entire section amended, p. 970, § 9, effective July 1. **L. 98:** Entire section amended, p. 1342, § 68, effective June 1. **L. 2006:** Entire section amended, p. 957, § 16, effective July 1. **L. 2007:** (1) amended, p. 1518, § 21, effective May 31.

36-20-114. Limits of permit.

(1) Except for ground-based winter cloud seeding, a separate permit is required annually for each operation. If an operation is to be conducted under contract, a permit is required for each separate contract. Subject to the provisions of subsection (2) of this section, a permit may be granted for more than one year's duration. A permit for ground-based winter cloud seeding shall be issued for a period of five years. If a permit for a ground-based winter cloud seeding operation is renewed, the second permit shall have a duration of five years and any third or subsequent permit shall have a duration of ten years.

(2) The director may conditionally approve a project other than ground-based winter cloud seeding for a continuous time period in excess of one year's duration. Permits for such operations

must be renewed annually. In approving the renewal of a permit for a continuous program, the director may waive the procedures for initial issuance of a permit in section 36-20-112 and, upon review and approval of the project's operational record, the director may issue a renewed permit for the operation to continue. In such instances, the fees imposed pursuant to section 36-20-113 may be prorated and paid on an annual basis.

(3) A project permit may be granted by the director without prior publication of notice by the operator in cases of fire, frost, hail, sleet, smog, fog, drought, or other emergency. In such cases, publication of notice shall be performed as soon as possible and shall not be subject to the time limits specified in this article or in article 4 of title 24, C.R.S.

Source: L. 72: R&RE, p. 639, § 1. **C.R.S. 1963:** § 151-1-14. **L. 92:** (2) amended, p. 957, § 12, effective March 19; entire section amended, p. 1914, § 5, effective July 1. **L. 96:** Entire section amended, p. 970, § 10, effective July 1.

36-20-115. Modification of permit.

(1) The director may revise the terms and conditions of a permit if:

(a) The operator is first given notice and a reasonable opportunity for a hearing on the need for a revision; and

(b) It appears to the director that a revision is necessary to protect the health or property of any person or to protect the environment.

(2) If it appears to the director that an emergency situation exists or is impending which could endanger life, property, or the environment, the director may, without prior notice or a hearing, immediately modify the conditions of a permit or order temporary suspension of the permit on the director's own order. The issuance of such order shall include notice of a hearing to be held within ten days thereafter on the question of permanently modifying the conditions or continuing the suspension of the permit. Failure to comply with an order temporarily suspending an operation or modifying the conditions of a permit shall be grounds for immediate revocation of the permit.

(3) It shall be the responsibility of the operator conducting any operation to notify the director of any emergency which can reasonably be foreseen or of any existing emergency situations in subsection (2) of this section which might in any way be caused or affected by the weather modification operation. Failure by the operator to so notify the director of any such existing emergency, or any impending emergency which should have been foreseen, may be grounds, at the discretion of the director, for revocation of the permit for operation.

Source: L. 72: R&RE, p. 640, § 1. **C.R.S. 1963:** § 151-1-15. **L. 96:** (1)(a), (2), and (3) amended, p. 971, § 11, effective July 1.

36-20-116. Scope of activity.

Once a permit is issued, the operator shall confine his or her activities within the limits of time and area specified in the permit, except to the extent that the limits are modified by the director. The operator shall also comply with any terms and conditions of the permit as originally issued or as subsequently modified by the director.

Source: L. 72: R&RE, p. 640, § 1. **C.R.S. 1963:** § 151-1-16. **L. 96:** Entire section amended, p. 971, § 12, effective July 1.

36-20-117. Reports of operator.

(1) The director may promulgate rules requiring any operator who has been issued a weather modification permit to file certain reports regarding operations conducted under the permit.

(2) (Deleted by amendment, L. 96, p. 971, § 13, effective July 1, 1996.)

(3) All reports filed under the provisions of this section are declared to be public records subject to the provisions and limitations of part 2 of article 72 of title 24, C.R.S.

Source: L. 72: R&RE, p. 640, § 1. **C.R.S. 1963:** § 151-1-17. **L. 73:** p. 1536, § 3. **L. 92:** (2) amended, p. 958, § 13, effective March 19; entire section amended, p. 1915, § 6, effective July 1. **L. 96:** Entire section amended, p. 971, § 13, effective July 1.

36-20-118. Operations affecting weather in other states. (Repealed)

Source: L. 72: R&RE, p. 641, § 1. **C.R.S. 1963:** § 151-1-18. **L. 2018:** Entire section repealed, (HB 18-1147), ch. 166, p. 1140, § 3, effective August 8.

36-20-119. Suspension - revocation - refusal to renew.

(1) The director may suspend or revoke a permit if it appears that the operator no longer has the qualifications necessary for the issuance of an original permit or has violated any provision of this article.

(2) The director may refuse to issue another permit to any applicant who has failed to comply with any provision of this article.

Source: L. 72: R&RE, p. 641, § 1. **C.R.S. 1963:** § 151-1-19. **L. 96:** Entire section amended, p. 972, § 14, effective July 1.

36-20-120. Operation under permit. (Repealed)

Source: L. 72: R&RE, p. 641, § 1. **C.R.S. 1963:** § 151-1-20. **L. 96:** Entire section repealed, p. 972, § 15, effective July 1.

36-20-121. Hearing required.

(1) Except as provided in section 36-20-115, the director may not suspend or revoke a permit without first giving the operator notice and a reasonable opportunity to be heard with respect to the grounds for the director's proposed action.

(2) Said hearing shall be conducted by an administrative law judge.

Source: L. 72: R&RE, p. 641, § 1. **C.R.S. 1963:** § 151-1-21. **L. 87:** (2) amended, p. 976, § 98, effective March 13. **L. 96:** (1) amended, p. 973, § 16, effective July 1. **L. 2001:** (2) amended, p. 1277, § 45, effective June 5.

36-20-122. Governmental immunity.

The state and its agencies, counties, and municipalities, all other public entities (as defined in section 24-10-103 (5), C.R.S.) within the state, and the officers and employees thereof are immune from liability resulting from any weather modification operations approved or conducted by them under the provisions and limitations of this article. Nothing in this section shall be construed as providing any broader waiver of immunity than is provided by article 10 of title 24, C.R.S.

Source: L. 72: R&RE, p. 641, § 1. **C.R.S. 1963:** § 151-1-22. **L. 77:** Entire section R&RE, p. 1630, § 1, effective May 20.

36-20-123. Legal recourse - liability - damages.

(1) The mere dissemination of materials and substances into the atmosphere pursuant to an authorized project shall not give rise to the contention or concept that such use of the atmosphere constitutes trespass or involves an actionable or enjoinable public or private nuisance.

(2) (a) Failure to obtain a permit before conducting an operation, or any actions which knowingly constitute a violation of the conditions of a permit, shall constitute negligence per se.

(b) The director may order any person who is found to be conducting a weather modification operation without a permit to cease and desist from said operation. Any person who fails to obey said order commits a class 6 felony and shall be punished as provided in section 18-1.3-401, C.R.S.

Source: L. 72: R&RE, p. 641, § 1. **C.R.S. 1963:** § 151-1-23. **L. 79:** (2)(b) amended, p. 1349, § 1, effective July 1. **L. 89:** (2)(b) amended, p. 849, § 131, effective July 1. **L. 96:** (2) amended, p. 973, § 17, effective July 1. **L. 2002:** (2)(b) amended, p. 1552, § 331, effective October 1.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (2)(b), see section 1 of chapter 318, Session Laws of Colorado 2002.

36-20-124. Permit as defense in actions.

The fact that a person was issued a permit under this article, or that the person has complied with the requirements established by the director pursuant to this article, is not admissible as a defense in actions for damages or injunctive relief brought against the person.

Source: L. 72: R&RE, p. 642, § 1. **C.R.S. 1963:** § 151-1-24. **L. 96:** Entire section amended, p. 973, § 18, effective July 1.

36-20-125. Judicial review.

Judicial review of any action of the director may be had in accordance with the provisions of section 24-4-106, C.R.S.

Source: L. 72: R&RE, p. 642, § 1. **C.R.S. 1963:** § 151-1-25. **L. 2001:** Entire section amended, p. 1277, § 46, effective June 5.

36-20-126. Penalties.

(1) (a) Any person responsible for conducting a weather modification operation without first having procured the required permit and any person who contracts with or pays another person known to be without a permit to conduct a weather modification operation commits a class 6 felony and shall be punished as provided in section 18-1.3-401, C.R.S.

(b) Any person operating an aircraft conducting a weather modification operation, which operation has not received the required permit, shall have this violation reported to the United States department of transportation, federal aviation administration, by the director.

(2) Any person who makes a false statement in the application for a permit, who fails to file any report as required by this article 20, or who violates any other provisions of this article 20, except as otherwise provided in section 36-20-123 and subsection (1) of this section, commits a class 2 misdemeanor. Each such violation shall be a separate offense.

Source: L. 72: R&RE, p. 642, § 1. **C.R.S. 1963:** § 151-1-26. **L. 79:** Entire section amended, p. 1349, § 2, effective July 1. **L. 89:** (1)(a) amended, p. 850, § 132, effective July 1. **L. 96:** (1)(a) and (2) amended, p. 973, § 19, effective July 1. **L. 2002:** (1)(a) amended, p. 1552, § 332, effective October 1. **L. 2021:** (2) amended, (SB 21-271), ch. 462, p. 3289, § 671, effective March 1, 2022.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (1)(a), see section 1 chapter 318, Session Laws of Colorado 2002.

36-20-127. Repeal of article.

This article 20 is repealed, effective September 1, 2033. Before its repeal, this article 20 is scheduled for review in accordance with section 24-34-104.

Source: L. 91: Entire section added, p. 690, § 70, effective April 20. **L. 94:** Entire section amended, p. 1457, § 10, effective May 25. **L. 96:** Entire section amended, p. 974, § 20, effective July 1. **L. 2011:** Entire section amended, (SB 11-090), ch. 301, p. 1449, § 3, effective June 8. **L. 2018:** Entire section amended, (HB 18-1147), ch. 166, p. 1139, § 2, effective August 8.