



Bill Ritter, Jr.
Governor

Colorado Department of Local Affairs
Susan E. Kirkpatrick
Executive Director

DIVISION OF PROPERTY TAXATION
JoAnn Groff
Property Tax Administrator

BULLETIN NO. 31

TO: County Assessors
FROM: JoAnn Groff
Property Tax Administrator
DATE: August 12, 2009

THE BULLETIN IS AVAILABLE ON OUR WEBSITE
Website address: <http://dola.colorado.gov/dpt>

<u>Date</u>	<u>Title</u>	<u>Distribution</u>
8/12/09	2009 Legislation SB 09-087, HB 09-1220, and HB 09-1260	Review with staff. File in 2009 Legislation File.





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MEMORANDUM

Summaries of bills affecting property tax and county government are below. A few additional bills will be distributed within the month. To view a final bill, press the control key and click on the bill number. Please contact Pam Godfrey at 303-866-2377 or pam.godfrey@state.co.us with questions concerning 2009 legislation.

SB 09-087 Concerning increased accountability requirements for special districts, and making an appropriation in connection therewith.

The summary below focuses only on portions of the bill.

Section 1 of the bill amends title 32, article 1, C.R.S., with the addition of a new section 104.5 that requires information about special district audits and budgets to be posted on the official website of the Division of Local Government in a readily accessible form. The division must also provide certified election results to the Secretary of State who must post the election results on the official website of the Department of State.

Section 3 of the bill amends section 32-1-306, C.R.S., by adding a requirement that on or before January 1, 2010, a special district must file a current, accurate map of its boundaries with the county clerk and recorder in each of the counties in which the special district or a part of the district extends. This is in addition to the existing requirement that a special district maintain a current accurate map on file with the county assessor and the Division of Local Government.

Section 4 of the bill amends section 32-8-104, C.R.S., by adding a new subsection (5) directing the board of a metropolitan district with more than \$25,000 of annual revenue, or with total authorized debt of more than \$1,000 per elector, to maintain a list of eligible electors of the district who have applied for permanent mail-in voter status. In an election conducted by the board, the board will mail a mail-in ballot to each eligible elector on the list.



Section 5 of the bill amends article 1, title 32, C.R.S., with the addition of a new section 809, which requires the board of a special district to annually provide a notice to eligible electors that includes specified information about the special district and its elections. The notice is either mailed to each elector, posted on the district's official website, or posted on the website of the statewide association of special districts. For a special district with less than 1,000 eligible electors that is located in a single county with a population of less than 30,000, the notice requirement may also be satisfied by posting the notice in at least three public places within the district and in the office of the county clerk and recorder.

Signed by Governor Ritter: June 1, 2009

Effective Date: September 1, 2009, except for sections 7 and 8, which take effect July 1, 2009.

HB 09-1220 Concerning an amendment to the “Colorado Common Interest Ownership Act” to permit a unit owner to prescribe specified conditions in connection with the use of such owner’s property that promote affordable housing.

The bill amends section 38-33.3-106.5, C.R.S., by adding a new paragraph (h). Applicable only in counties that have a population of less than 100,000 and a ski lift licensed by the Passenger Tramway Safety Board, this bill allows a unit owner to specify or restrict the unit's sale price, rental rate, lease rate, or occupancy or other requirements that are designed to promote affordable or workforce housing regardless of any homeowner association rules to the contrary. Any unit subject to these provisions shall only be occupied by the owner of the unit except as otherwise provided in the declaration of the common interest community. The provisions do not apply to a declarant-controlled community (generally, a community still managed by the developer).

Nothing prohibits the future owner of a restricted unit from lifting such restriction(s) on the unit. However, the unit released from the restriction(s) must be replaced by another unit of reasonable equivalency in the same common interest community on which the restriction or specification applies.

Signed by Governor Ritter: April 22, 2009

Effective Date: August 5, 2009

HB 09-1260 Concerning Designated Beneficiary Agreements.

This very lengthy bill enables two competent adults who are not married to enter into a designated beneficiary agreement, making each adult a designated beneficiary of the other. In the absence of a superseding legal document that controls, a designated beneficiary agreement entitles each party to certain financial protections regarding ownership in real and personal property. The beneficiary agreement also allows each party to inherit through intestate succession upon the death of the other designated beneficiary. Transfer of title to the grantee in a designated beneficiary agreement is effected by recording a Death Certificate of the grantor in a manner similar to showing transfer to a surviving joint tenant. Until the Death Certificate is recorded, title is presumed to remain in the grantor.

Section 1 adds a new article 22 to title 15, C.R.S., entitled Designated Beneficiary Agreements. The purpose of this article is to make existing laws relating to health care, medical emergencies, incapacity, death, and the administration of decedent's estates available to more persons through a process of documenting designated beneficiary agreements. The article also allows individuals to elect to have certain default provisions in state statutes provide rights, benefits, and protections to a designated beneficiary in situations in which no valid and enforceable estate planning document exist.

Subsection 15-22-103(2), C.R.S., defines a “Designated Beneficiary Agreement” as an agreement entered into by two people for the purpose of designating each person as the beneficiary of the other person and for the purpose of ensuring that each person has

certain rights and financial protections based upon the designation. Subsection (3) defines “superseding legal documents” as a legal document, regardless of the date of execution that causes the designated beneficiary agreement, in whole or in part, to be replaced or set aside. Superseding legal documents may include, but not limited to the following:

- a will;
- a codicil;
- a power of attorney;
- a medical durable power of attorney;
- a trust instrument;
- a beneficiary designation in an insurance policy
- a beneficiary designation for a deposit or account;
- a declaration as to medical treatment;
- a declaration as to disposition of last remains; and
- a marriage license.

In order for a designated beneficiary agreement to be legally recognized, section 15-22-104, C.R.S., requires that the parties satisfy all of the following criteria:

- both are at least eighteen years of age;
- both are competent to enter into a contract;
- neither party is married to another person;
- neither party is a party to another designated beneficiary agreement; and
- both parties enter into the designated beneficiary agreement without force, fraud, or duress.

Paragraphs 15-22-105(3)(a) thru (i), C.R.S., entitle the parties of a designated beneficiary agreement to exercise several rights and protections. Of particular interest to assessors’ is paragraphs (a) and (b). Paragraph (a) entitles the right to acquire, hold title to, own jointly, or transfer intervivos or at death real or personal property as joint tenants with the right of survivorship or as tenants in common. Paragraph (b) entitles the right to be designated as a beneficiary, payee, or owner as a trustee named in an intervivos or testamentary trust for the purposes of a non-probate transfer on death. Some of the other rights and protections of section 15-22-105, C.R.S.:

- the right to be designated as a beneficiary and recognized as a dependent for the following benefits:
 - public employees retirement;
 - local government firefighter and police pensions;
 - insurance policies for life insurance coverage; and
 - health insurance policies
- the right to be appointed as a conservator, guardian, or personal representative for the other designated beneficiary;
- the right to visitation by the other designated beneficiary in a hospital, nursing home, hospice, or similar health care facility and the right to initiate a formal complaint alleging a violation of the rights of nursing home patients;
- the right to act as a proxy decision-maker or surrogate decision-maker to make medical treatment decisions;
- the right to receive notice or the withholding or withdrawal of life-sustaining procedures and the right to challenge the validity as to medical or surgical treatment;
- the right to act as an agent and to make, revoke, or object to anatomical gifts;
- the right to inherit real or personal property from the other designated beneficiary through intestate succession;
- the right to have standing to receive benefits pursuant to the “Workers Compensation Act of Colorado”;
- the right to have standing to sue for wrongful death; and
- the right to direct the disposition of the other designated beneficiary’s last remains.

Subsection 15-22-106(1), C.R.S., contains the disclaimer and statutory form for a designated beneficiary agreement. The form contains columns for “Party A” and “Party B” to initial their permission to “grant” or “withhold” a right or protection. Only the first two initialed rights on the statutory form concern the assessor’s office.

If either of these two rights is initialed on the “grant” side of the statutory form, the assessor should make note of the reception number on the real and/or personal property record indicating that a designated beneficiary agreement is of record. Transfer of title to the grantee is effected by recording a Death Certificate. Until the Death Certificate is recorded, title is presumed to remain in the grantor.

Subsection 15-22-111(1), C.R.S., contains the procedures for revocation of a designated beneficiary agreement. The designated beneficiary agreement can be unilaterally revoked by either party to the agreement by recording a revocation with the clerk and recorder in the county the agreement was recorded. The designated beneficiary agreement is also deemed to be revoked upon the marriage of either party. Subsection 15-22-111(4), C.R.S., is the statutory form that is used for a revocation of a designated beneficiary agreement.

Subsections 15-22-112(1) and (2), C.R.S., states that the designated beneficiary agreement is terminated upon the death of either of the parties. However, a right of power which a designated beneficiary agreement conferred upon a beneficiary survives the death of the other designated beneficiary. The party who survives a designated beneficiary may enter into another designated beneficiary agreement with a different person.

Sections 2-19 make conforming amendments and additions to sections 8-41-501, C.R.S., 10-16-102 and 105, C.R.S., 12-34-109, C.R.S., 13-21-201, C.R.S., 15-11-103, C.R.S., 15-11-106, C.R.S., 15-11-114, C.R.S., 15-12-203, C.R.S., 15-14-310, C.R.S., 15-14-413, C.R.S., 15-18.5-103 and 104, C.R.S., 15-19-103 and 106, C.R.S., 30-10-406, C.R.S., and 25-1-120, C.R.S.

Signed by Governor Ritter: April 9, 2009
Effective Date: July 1, 2009