

Second Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0928.01 Kate Meyer

HOUSE BILL 10-1361

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HOUSE SPONSORSHIP

Sonnenberg,

SENATE SPONSORSHIP

(None),

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House Committees  
State, Veterans, & Military Affairs

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING ACQUISITIONS BY THE WILDLIFE COMMISSION OF FEE  
102 SIMPLE TITLE TO REAL PROPERTY USING HABITAT STAMP FUNDS.

Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

An owner of a fee simple title to a parcel of real property owns all possible interest in the property. The bill allows the wildlife commission (commission) to purchase and retain a fee simple title to real property using habitat stamp moneys only when no other type of interest is viable or available. When the commission acquires and retains a fee simple title

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

to real property using habitat stamp revenue, the bill requires the commission to issue a report to the house agriculture, livestock, and natural resources committee and the senate agriculture and natural resources committee setting forth its finding that no other interest was available or viable. Furthermore, a fee simple title purchase must be accompanied by a realistic estimate of the operation, maintenance, and enhancement costs for that particular property, which amount shall be deposited in the Colorado wildlife habitat stamp operation, maintenance, and enhancement fund (fund), which is created in the bill.

The commission is also required to report to the joint house agriculture, livestock, and natural resources committee and the senate agriculture and natural resources committee, at least biennially, on the lands that it holds in fee simple and, in light of the policy regarding fee simple title interests being held by the commission, the commission must establish guidelines and procedures to sell all or portions of those lands when possible, consistent with the continued achievement of goals for which that property was originally acquired. Proceeds from the sale of such lands shall be handled and expended in the same manner as revenues from habitat stamp sales, and proceeds from all other transactions involving real property held in fee simple shall be deposited in the fund.

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

2           **SECTION 1.** 33-1-105.5, Colorado Revised Statutes, is amended  
3 BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to  
4 read:

5           **33-1-105.5. Acquisition of property - procedure - reports -**  
6 **rules.** (11) WHEN THE COMMISSION USES HABITAT STAMP MONEYS TO  
7 ACQUIRE AND RETAIN A FEE SIMPLE TITLE, THE COMMISSION SHALL ISSUE  
8 A REPORT TO THE HOUSE AGRICULTURE, LIVESTOCK, AND NATURAL  
9 RESOURCES COMMITTEE AND THE SENATE AGRICULTURE AND NATURAL  
10 RESOURCES COMMITTEE, OR THEIR SUCCESSOR COMMITTEES,  
11 DOCUMENTING ITS EFFORTS TO EXPLORE ALL OTHER REAL PROPERTY  
12 ACQUISITION OPTIONS PRIOR TO FEE SIMPLE TITLE ACQUISITION AND  
13 SETTING FORTH ITS REASONS FOR FINDING THAT ACQUISITION AND  
14 RETENTION OF A FEE SIMPLE TITLE IS THE ONLY AVAILABLE INTEREST OR

1 THE ONLY VIABLE TYPE OF TITLE FOR THE PURPOSES FOR WHICH THE  
2 PROPERTY IS BEING PURCHASED.

3 (12) THE COMMISSION SHALL DEVELOP BY RULE A PROCESS AND  
4 GUIDELINES TO EVALUATE THE RESALE OF ALL OR PORTIONS OF LANDS  
5 PURCHASED IN WHOLE OR IN PART WITH HABITAT STAMP MONEYS AND  
6 HELD IN FEE SIMPLE, AND SHALL REPORT ON SUCH FEE TITLE HOLDINGS AT  
7 LEAST BIENNIALLY TO A JOINT MEETING OF THE HOUSE AGRICULTURE,  
8 LIVESTOCK, AND NATURAL RESOURCES COMMITTEE AND THE SENATE  
9 AGRICULTURE AND NATURAL RESOURCES COMMITTEE, OR THEIR  
10 SUCCESSOR COMMITTEES. THE COMMISSION IS AUTHORIZED AND  
11 ENCOURAGED, WHEREVER PRACTICAL, TO SELL ALL OR PORTIONS OF THE  
12 REAL PROPERTY, PURCHASED WHOLLY OR PARTLY WITH HABITAT STAMP  
13 MONEYS, THAT IT HOLDS IN FEE SIMPLE INTO PRIVATE OWNERSHIP WHEN  
14 SUCH SALES ALLOW FOR THE CONTINUED ACCOMPLISHMENT OF THE GOALS  
15 FOR WHICH THE PROPERTY WAS ORIGINALLY ACQUIRED. IN A  
16 TRANSACTION TO SELL PROPERTY UNDER THIS SUBSECTION (12), THE  
17 COMMISSION SHALL USE ANY AVAILABLE MEANS, INCLUDING  
18 CONSERVATION EASEMENTS, AGRICULTURAL LEASES, MANAGEMENT  
19 AGREEMENTS, AND ACCESS AGREEMENTS, TO ENABLE THE CONTINUED USE  
20 OF THAT PROPERTY TO ACHIEVE THE DIVISION'S OBJECTIVES. PROCEEDS  
21 FROM SALES OF SUCH PROPERTY SHALL BE PROCESSED, ADMINISTERED,  
22 AND USED IN THE SAME MANNER AND FOR THE SAME PURPOSES AS MONEYS  
23 EARNED FROM THE SALE OF HABITAT STAMPS. PROCEEDS FROM ANY  
24 OTHER TRANSACTIONS INVOLVING SUCH PROPERTY, INCLUDING LEASES,  
25 SHALL BE DEPOSITED INTO THE COLORADO WILDLIFE HABITAT STAMP  
26 OPERATION, MAINTENANCE, AND ENHANCEMENT FUND CREATED IN  
27 SECTION 33-4-102.7 (4) (c) (II).

1           **SECTION 2.** 33-4-102.7 (1) (c) and (4) (c), Colorado Revised  
2 Statutes, as they will become effective July 1, 2010, are amended to read:

3           **33-4-102.7. Colorado wildlife habitat stamp - review**  
4 **committee - Colorado wildlife passport created - Colorado wildlife**  
5 **passport fund - rules - study - repeal.** (1) The general assembly hereby  
6 finds, determines, and declares that:

7           (c) Priorities for the expenditure of funds generated from the sale  
8 of habitat stamps and Colorado wildlife passports shall include protecting  
9 big game winter range and migration corridors, acquiring public access  
10 to wildlife-related recreation, including fishing, hunting, and wildlife  
11 viewing, protecting habitat for species of concern, and preserving the  
12 diversity of wildlife enjoyed by Coloradans; HOWEVER, THE COMMISSION  
13 SHALL ACQUIRE AND RETAIN A FEE SIMPLE TITLE THAT IS FINANCED  
14 WHOLLY OR PARTLY WITH HABITAT STAMP MONEYS ONLY AFTER  
15 ENSURING THAT ALL OTHER REAL PROPERTY ACQUISITION OPTIONS ARE  
16 EXPLORED.

17           (4) (c) (I) Real property interest acquisitions made by the  
18 commission pursuant to this section shall emphasize the acquisition of  
19 easements and ensure that all other avenues are pursued prior to fee  
20 simple TITLE acquisition. Conservation easements, as described in section  
21 38-30.5-104 (2), C.R.S., and fee simple title purchases are allowed;  
22 HOWEVER, FEE SIMPLE TITLE PURCHASES FINANCED WHOLLY OR PARTLY  
23 WITH HABITAT STAMP MONEYS SHALL BE MADE ONLY AFTER ENSURING  
24 THAT ALL OTHER REAL PROPERTY ACQUISITION OPTIONS ARE EXPLORED.  
25 All fee simple title purchases made with revenues collected pursuant to  
26 this section, not including purchases of water for maintenance or  
27 enhancement of aquatic habitats, such as minimum storage pools or direct

1 flow rights purchased specifically to protect habitat, shall be primarily for  
2 the purpose of providing access to the public for wildlife-related  
3 recreation, and shall be made available to the public for hunting or  
4 fishing, subject to wildlife commission rules. ALL FEE SIMPLE TITLE  
5 PURCHASES OF REAL PROPERTY THAT ARE MADE WITH HABITAT STAMP  
6 FUNDS SHALL INCLUDE A SITE-SPECIFIC VALUATION OF THE ANTICIPATED  
7 COSTS TO OPERATE, MAINTAIN, AND ENHANCE THAT PROPERTY, WHICH  
8 AMOUNT SHALL BE DEDUCTED FROM REVENUES OF THE SALE OF HABITAT  
9 STAMPS OR OTHER SOURCES AND CREDITED TO THE COLORADO WILDLIFE  
10 HABITAT STAMP OPERATION, MAINTENANCE, AND ENHANCEMENT FUND  
11 CREATED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (c). The  
12 commission shall not use the power of eminent domain to obtain fee  
13 simple title or a conservation easement on real property. The commission  
14 shall comply with a seller's agreement or sections 33-1-105 and  
15 33-1-105.5 prior to purchasing real property. Prior to December 31,  
16 2010, AND CONSISTENT WITH THE POLICY EXPRESSED IN PARAGRAPH (c)  
17 OF SUBSECTION (1) OF THIS SECTION REGARDING FEE SIMPLE TITLE  
18 ACQUISITION AND ENSURING THAT ALL OTHER REAL PROPERTY  
19 ACQUISITION OPTIONS ARE EXPLORED PRIOR TO FEE SIMPLE TITLE  
20 ACQUISITION, a minimum of sixty percent of the moneys received from  
21 the sale of the Colorado wildlife habitat stamp shall be spent to benefit  
22 big game winter range or big game migration corridors.

23 (II) THERE IS HEREBY CREATED IN THE STATE TREASURY THE  
24 COLORADO WILDLIFE HABITAT STAMP OPERATION, MAINTENANCE, AND  
25 ENHANCEMENT FUND, WHICH FUND CONSISTS OF THE MONEYS DESCRIBED  
26 IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (c) THAT ARE NECESSARY, AND  
27 SHALL BE USED BY THE COMMISSION, FOR EXPENSES ASSOCIATED WITH

1 OPERATING, MAINTAINING, AND ENHANCING REAL PROPERTY HELD IN FEE  
2 SIMPLE BY THE DIVISION. MONEYS IN THE COLORADO WILDLIFE HABITAT  
3 STAMP OPERATION, MAINTENANCE, AND ENHANCEMENT FUND ARE  
4 SUBJECT TO ANNUAL APPROPRIATION. ANY BALANCE REMAINING IN THE  
5 FUND AT THE END OF ANY FISCAL YEAR SHALL REMAIN IN THE FUND AND  
6 SHALL NOT BE DEPOSITED IN OR TRANSFERRED TO THE GENERAL FUND OR  
7 ANY OTHER FUND.

8 **SECTION 3. Act subject to petition - effective date.** This act  
9 shall take effect at 12:01 a.m. on the day following the expiration of the  
10 ninety-day period after final adjournment of the general assembly (August  
11 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a  
12 referendum petition is filed pursuant to section 1 (3) of article V of the  
13 state constitution against this act or an item, section, or part of this act  
14 within such period, then the act, item, section, or part shall not take effect  
15 unless approved by the people at the general election to be held in  
16 November 2010 and shall take effect on the date of the official  
17 declaration of the vote thereon by the governor.