

**NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.**

# An Act

HOUSE BILL 06-1003

BY REPRESENTATIVE(S) Pommer, Borodkin, Green, Hefley, Larson, McFadyen, Berens, Buescher, Carroll T., Coleman, Decker, Frangas, Garcia, Gardner, Hall, Hodge, Jahn, Kerr J., Knoedler, Madden, McCluskey, Merrifield, Paccione, Ragsdale, Riesberg, Romanoff, Rose, Solano, Stafford, Sullivan, Todd, White, and Witwer;  
also SENATOR(S) Williams, Isgar, Wiens, Brophy, Dyer, Entz, Evans, Fitz-Gerald, Gordon, Johnson, Jones, Keller, Kester, Lamborn, May R., Mitchell, Owen, Shaffer, Spence, Teck, Tochtrop, Traylor, and Tupa.

CONCERNING PRIVATE TOLL ROADS AND TOLL HIGHWAYS, AND, IN CONNECTION THEREWITH, SPECIFYING REQUIREMENTS THAT MUST BE MET BEFORE A CORPORATION CAN CONSTRUCT A PRIVATE TOLL ROAD OR TOLL HIGHWAY.

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

**SECTION 1.** Article 45 of title 7, Colorado Revised Statutes, as amended by Senate Bill 06-078, enacted at the Second Regular Session of the Sixty-fifth General Assembly, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

## **ARTICLE 45** **Toll Road Companies**

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

**7-45-101. Formation of toll road or toll highway company - description of corridor.** (1) A TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL BE FORMED UNDER COLORADO LAW, AND ITS FILED FORMATION DOCUMENT SHALL SPECIFY AND MAP A THREE-MILE CORRIDOR WITHIN WHICH A TOLL ROAD OR TOLL HIGHWAY OR A TOLL ROAD OR TOLL HIGHWAY PROJECT WILL BE LOCATED AND IDENTIFY THE GENERAL LOCATION OF THE TERMINI WITHIN THE CORRIDOR. IF A TOLL ROAD OR TOLL HIGHWAY COMPANY COMPLIES WITH THE PROVISIONS OF THIS ARTICLE, IT SHALL HAVE THE POWER TO ERECT TOLL GATES AND SET AND COLLECT TOLLS.

(2) THE SECRETARY OF STATE SHALL MAINTAIN A LIST OF ALL TOLL ROAD AND TOLL HIGHWAY COMPANIES AND SHALL MAKE THE LIST AND THE FILED FORMATION DOCUMENTS FOR ALL TOLL ROAD AND TOLL HIGHWAY COMPANIES AVAILABLE TO THE PUBLIC. TO ALLOW THE SECRETARY OF STATE TO EFFICIENTLY COMPILE AND MAINTAIN AN ACCESSIBLE LIST, A TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL INCLUDE THE DESIGNATION "PTR" IN ITS OFFICIAL NAME AS SPECIFIED IN ITS FILED FORMATION DOCUMENT.

(3) NOTHING IN ARTICLES 30 TO 52, 101 TO 117, OR 121 TO 137 OF THIS TITLE SHALL BE CONSTRUED TO AUTHORIZE A TOLL ROAD OR TOLL HIGHWAY COMPANY TO LOCATE ALL OR ANY PART OF ITS THREE-MILE CORRIDOR, AS DESCRIBED IN SUBSECTION (1) OF THIS SECTION, UPON ANY EXISTING TOLL ROAD, TOLL HIGHWAY, OR PUBLIC HIGHWAY THAT IS, AT THE TIME OF THE FORMATION OF THE COMPANY, USED AS SUCH, OR WITHIN FIVE MILES OF THE ROUTE OR CORRIDOR FOR A FUTURE TOLL ROAD, TOLL HIGHWAY, OR TOLL ROAD OR TOLL HIGHWAY PROJECT THAT HAS BEEN DESIGNATED IN ANY PREVIOUSLY FILED FORMATION DOCUMENT EXCEPT AS NECESSARY TO CROSS THE TOLL ROAD, TOLL HIGHWAY, PROJECT, ROUTE, OR CORRIDOR.

(4) UPON THE EFFECTIVE DATE OF THIS SUBSECTION (4), ANY TOLL ROAD OR TOLL HIGHWAY COMPANY WHOSE EXISTING CERTIFICATE OF INCORPORATION SPECIFIES THE ROUTE OF A FUTURE TOLL ROAD OR TOLL HIGHWAY OR THE LOCATION OF A FUTURE TOLL ROAD OR TOLL HIGHWAY PROJECT, OR ANY AFFILIATE OF SUCH A COMPANY, SHALL HAVE THE EXCLUSIVE RIGHT FOR A PERIOD OF NINETY DAYS TO FILE NEW OR AMENDED FORMATION DOCUMENTS THAN ENCOMPASS LAND WITHIN THE SPECIFIED ROUTE.

**7-45-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ASSOCIATED RAIL CORRIDOR" MEANS A CORRIDOR FOR A PROPOSED RAIL LINE AND ANY RELATED RAIL FACILITIES NECESSARY FOR THE OPERATION OF A RAIL LINE THAT ARE TO BE LOCATED IN THE RIGHT-OF-WAY OF A TOLL ROAD OR TOLL HIGHWAY.

(2) "ASSOCIATED SERVICE AREA" MEANS A GAS STATION, RESTAURANT, OR OTHER TRAVEL-RELATED SERVICE THAT SERVES MOTORISTS USING A TOLL ROAD OR TOLL HIGHWAY.

(3) "ASSOCIATED UTILITY CORRIDOR" MEANS A UTILITY LINE OR SYSTEM AND ANY RELATED INFRASTRUCTURE USED TO CONVEY GAS, ELECTRICITY, WATER, SEWAGE, TELECOMMUNICATIONS SIGNALS, DATA, OR OTHER MEDIA LOCATED OR TO BE LOCATED IN THE RIGHT-OF-WAY OF A TOLL ROAD OR TOLL HIGHWAY.

(4) "COMMENTING STATE AGENCIES" MEANS THE DEPARTMENT OF TRANSPORTATION, THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, THE DEPARTMENT OF NATURAL RESOURCES, THE DEPARTMENT OF AGRICULTURE, AND THE DEPARTMENT OF LOCAL AFFAIRS.

(5) "COMMERCIAL, RESIDENTIAL, AND INDUSTRIAL DEVELOPMENT" MEANS THE DEVELOPMENT OF OFFICES, SHOPS, STORES, HOTELS, RESTAURANTS, BARS, WAREHOUSES, FACTORIES, HOUSES, APARTMENTS, CONDOMINIUMS, AND OTHER BUILDINGS AND STRUCTURES USED FOR THE SALE AND RENTAL OF GOODS OR SERVICES, FOR THE MANUFACTURE, FABRICATION, ASSEMBLY, OR STORAGE OF PRODUCTS, OR FOR SLEEPING OR DWELLING.

(6) "COMPANY" MEANS A DOMESTIC CORPORATION, GENERAL PARTNERSHIP, LIMITED PARTNERSHIP, LIMITED LIABILITY COMPANY, LIMITED LIABILITY PARTNERSHIP, LIMITED LIABILITY LIMITED PARTNERSHIP, LIMITED PARTNERSHIP ASSOCIATION, NONPROFIT ASSOCIATION, NONPROFIT CORPORATION, COOPERATIVE, OR OTHER ORGANIZATION OR ASSOCIATION THAT IS CREATED UNDER A STATUTE OR COMMON LAW OF THIS STATE AND THAT IS RECOGNIZED UNDER THE LAW OF THIS STATE AS A SEPARATE LEGAL ENTITY.

(7) "FILED FORMATION DOCUMENT" MEANS ARTICLES OF INCORPORATION, ARTICLES OF ORGANIZATION, A CERTIFICATE OF LIMITED PARTNERSHIP, ARTICLES OF ASSOCIATION, A STATEMENT OF REGISTRATION, OR ANY OTHER DOCUMENT OF SIMILAR IMPORT FILED BY AN ENTITY WITH THE SECRETARY OF STATE UNDER WHICH THE ENTITY IS FORMED OR OBTAINS ITS LEGAL STATUS IN THIS STATE.

(8) "TOLL ROAD" OR "TOLL HIGHWAY" MEANS A SERIES OF IMPROVEMENTS, INCLUDING BUT NOT LIMITED TO PAVING, GRADING, LANDSCAPING, CURBS, GUTTERS, CULVERTS, SIDEWALKS, BIKEWAYS, LIGHTING, BRIDGES, OVERPASSES, UNDERPASSES, FRONTAGE ROADS, ACCESS ROADS, INTERCHANGES, DRAINAGE FACILITIES, MASS TRANSIT LANES, PARK AND RIDE FACILITIES, TOLL COLLECTION FACILITIES, ADMINISTRATIVE OR MAINTENANCE FACILITIES, AND EMERGENCY RESPONSE AND LAW ENFORCEMENT SERVICES. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO AFFECT ANY COMMON CARRIER, AS DEFINED IN SECTION 40-1-102 (3), C.R.S., INCLUDING, BUT NOT LIMITED TO, ANY RAILROAD. ANY UTILITY LINE, SYSTEM, OR INFRASTRUCTURE SHALL BE SUBJECT TO A REASONABLE FEE AND REASONABLE RELOCATION PROVISIONS.

(9) "TOLL ROAD OR TOLL HIGHWAY COMPANY" MEANS A COMPANY THAT PROPOSES TO CONSTRUCT A TOLL ROAD OR TOLL HIGHWAY IN THIS STATE UNDER THE PROVISIONS OF THIS ARTICLE.

(10) "TOLL ROAD OR TOLL HIGHWAY PROJECT" OR "PROJECT" MEANS A PROPOSED TOLL ROAD OR TOLL HIGHWAY TOGETHER WITH ANY ASSOCIATED RAIL CORRIDOR, ASSOCIATED SERVICE AREA, OR ASSOCIATED UTILITY CORRIDOR.

**7-45-103. Deadline to commence work - maintenance of effort requirement.** A TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL COMMENCE WORK, INCLUDING BUT NOT LIMITED TO PLANNING, DESIGN, ENVIRONMENTAL, MITIGATION, AND OTHER PRECONSTRUCTION WORK, ON THE TOLL ROAD OR TOLL HIGHWAY PROPOSED IN THE FILED FORMATION DOCUMENT NO LATER THAN THREE YEARS AFTER THE FILING OF THE DOCUMENT, OR WITHIN ONE YEAR AFTER RECEIVING ALL NECESSARY APPROVALS FOR CONSTRUCTION. IF ANY NECESSARY APPROVAL IS THE SUBJECT OF ADMINISTRATIVE OR JUDICIAL REVIEW, THEN THE ONE-YEAR PERIOD SHALL BE AUTOMATICALLY EXTENDED UNTIL ONE YEAR AFTER ALL ADMINISTRATIVE OR JUDICIAL REVIEW HAS BEEN CONCLUDED. THE TOLL

ROAD OR TOLL HIGHWAY COMPANY AND ANY SUCCESSOR TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL CONTINUE THE WORK FROM DAY TO DAY UNTIL AT LEAST FIVE HUNDRED THOUSAND DOLLARS HAVE BEEN EXPENDED ON THE TOLL ROAD OR TOLL HIGHWAY. IF THE TOLL ROAD OR TOLL HIGHWAY COMPANY FAILS TO PERFORM THE REQUIRED WORK, IT SHALL FORFEIT ALL RIGHTS ACQUIRED UNDER ITS FILED FORMATION DOCUMENT AND BE ADMINISTRATIVELY DISSOLVED. IF THE TOLL ROAD OR TOLL HIGHWAY COMPANY PERFORMS THE REQUIRED WORK, IT SHALL HAVE THE EXCLUSIVE RIGHT TO DEVELOP OR SEEK APPROVAL TO DEVELOP A TOLL ROAD OR TOLL HIGHWAY WITHIN THE THREE-MILE CORRIDOR SPECIFIED IN ITS FILED FORMATION DOCUMENT AS REQUIRED BY SECTION 7-45-101 (1).

**7-45-104. Acquisition of right-of-way.** (1) NOTWITHSTANDING THE PROVISIONS OF SECTION 38-2-101, C.R.S., ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION, A TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL NOT HAVE THE POWER TO EXERCISE THE RIGHT OF EMINENT DOMAIN TO ACQUIRE ANY PART OF THE RIGHT-OF-WAY OF THE THREE-MILE CORRIDOR OF A PROPOSED TOLL ROAD OR TOLL HIGHWAY SPECIFIED IN THE FILED FORMATION DOCUMENT OF THE COMPANY AS REQUIRED BY SECTION 7-45-101 (1). NOTHING HEREIN SHALL PROHIBIT A TOLL ROAD OR TOLL HIGHWAY COMPANY FROM ENTERING INTO A PUBLIC-PRIVATE INITIATIVE WITH THE DEPARTMENT OF TRANSPORTATION IN ACCORDANCE WITH THE PROVISIONS OF PART 12 OF ARTICLE 1 OF TITLE 43, C.R.S., AND AS AUTHORIZED IN SECTION 7-45-111 FOR THE PURPOSE OF ENABLING THE CONSTRUCTION OF SUCH A TOLL ROAD OR TOLL HIGHWAY, BUT IN SUCH A CASE THE POWER OF EMINENT DOMAIN SHALL NOT BE EXERCISED BY THE TOLL ROAD OR TOLL HIGHWAY COMPANY AND MAY BE EXERCISED BY THE DEPARTMENT ONLY FOR PURPOSES OF ACQUIRING PROPERTY AND RIGHTS-OF-WAY NECESSARY FOR THE COMPLETION OF A TOLL ROAD OR TOLL HIGHWAY OPEN TO THE PUBLIC THAT IS INCORPORATED INTO THE COMPREHENSIVE STATEWIDE TRANSPORTATION PLAN PREPARED PURSUANT TO SECTION 43-1-1103 (5), C.R.S. THE DEPARTMENT MAY NOT USE THE POWER OF EMINENT DOMAIN PROVIDED IN THIS SECTION TO ACQUIRE A CEMETERY, AS DEFINED IN SECTION 10-15-102 (2), C.R.S., OR PROPERTY OWNED BY OR PRIMARILY USED BY A RELIGIOUS ORGANIZATION. IN EXERCISING THE POWER OF EMINENT DOMAIN, THE DEPARTMENT SHALL COMPLY WITH ALL LAWS AND ADMINISTRATIVE RULES THAT GOVERN THE DEPARTMENT'S USE OF EMINENT DOMAIN FOR STATE HIGHWAY PROJECTS, AND THE RIGHTS-OF-WAY ACQUIRED SHALL FORM A CORRIDOR NO LARGER THAN THAT APPROVED BY ALL AFFECTED METROPOLITAN PLANNING

ORGANIZATIONS, REGIONAL PLANNING COMMISSIONS, AND THE TRANSPORTATION COMMISSION PURSUANT TO SECTIONS 7-45-105 AND 7-45-106. IN ACCORDANCE WITH SECTION 43-1-1204 (3) (b), C.R.S., THE DEPARTMENT MAY NOT SELL OR OTHERWISE TRANSFER OWNERSHIP OF PROPERTY OR RIGHTS-OF-WAY ACQUIRED THROUGH THE EXERCISE OF THE POWER OF EMINENT DOMAIN AS AUTHORIZED BY THIS SECTION TO A TOLL ROAD OR TOLL HIGHWAY COMPANY.

(2) AS USED IN THIS SECTION, "RELIGIOUS ORGANIZATION" MEANS ANY ORGANIZATION, CHURCH, BODY OF COMMUNICANTS, OR GROUP, NOT FOR PECUNIARY PROFIT, GATHERED IN COMMON MEMBERSHIP FOR MUTUAL SUPPORT AND EDIFICATION IN PIETY, WORSHIP, AND RELIGIOUS OBSERVANCES OR A SOCIETY, NOT FOR PECUNIARY PROFIT, OF INDIVIDUALS UNITED FOR RELIGIOUS PURPOSES AT A DEFINITE PLACE.

**7-45-105. Planning standards and project review.** (1) A TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL NOT COMMENCE THE CONSTRUCTION OF A TOLL ROAD OR TOLL HIGHWAY OR OF ANY OTHER ELEMENT OF A TOLL ROAD OR TOLL HIGHWAY PROJECT UNTIL THE TOLL ROAD OR TOLL HIGHWAY OR OTHER ELEMENT HAS BEEN REVIEWED BY EVERY METROPOLITAN PLANNING ORGANIZATION OR REGIONAL PLANNING COMMISSION THAT IS LOCATED IN WHOLE OR IN PART WITHIN THE THREE-MILE CORRIDOR DESIGNATED BY THE TOLL ROAD OR TOLL HIGHWAY COMPANY AS REQUIRED BY SECTION 7-45-101 (1) AND HAS BEEN INCLUDED IN THE REGIONAL TRANSPORTATION PLAN IN EFFECT FOR THE REGION PURSUANT TO SECTION 43-1-1103, C.R.S., AND IN THE COMPREHENSIVE STATEWIDE TRANSPORTATION PLAN REQUIRED PURSUANT TO SECTION 43-1-1103 (5), C.R.S. IN DESIGNATED NONATTAINMENT AREAS FOR ANY POLLUTANT PURSUANT TO THE FEDERAL "CLEAN AIR ACT", 42 U.S.C. SEC. 7401 ET SEQ., AS AMENDED, A METROPOLITAN PLANNING ORGANIZATION OR REGIONAL PLANNING COMMISSION SHALL NOT INCLUDE A TOLL ROAD OR TOLL HIGHWAY PROJECT IN THE REGIONAL TRANSPORTATION PLAN UNLESS THE ORGANIZATION OR COMMISSION HAS PERFORMED AN EMISSIONS ANALYSIS THAT DEMONSTRATES THAT REGIONAL EMISSIONS AND LOCAL PROJECT EMISSIONS WILL CONTINUE TO CONFORM TO THE STATE IMPLEMENTATION PLAN IF THE PROJECT IS ADDED TO THE REGIONAL TRANSPORTATION PLAN. THE TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL PAY THE REASONABLE ACTUAL COSTS FOR THE EMISSIONS ANALYSIS. EACH ORGANIZATION OR COMMISSION MAY CONDITION ITS ADDITION OF A TOLL ROAD OR TOLL HIGHWAY PROJECT INTO THE REGIONAL

TRANSPORTATION PLAN UPON ACCEPTABLE ENVIRONMENTAL MITIGATION ACTIVITIES AND COMMITMENTS TO OFFSET INCREMENTAL COSTS OF PUBLIC SERVICES THAT WILL BE NECESSARY AS A RESULT OF DEVELOPMENT OF THE PROJECT WITHIN THE PLANNING REGION.

(2) AT LEAST THIRTY DAYS BEFORE A METROPOLITAN PLANNING ORGANIZATION OR REGIONAL PLANNING COMMISSION MAY AMEND ITS REGIONAL TRANSPORTATION PLAN PURSUANT TO SUBSECTION (1) OF THIS SECTION, A TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL PROVIDE THE ORGANIZATION OR COMMISSION INFORMATION ON THE TOLL ROAD OR TOLL HIGHWAY PROJECT BEING CONSIDERED FOR ADDITION TO THE PLAN THAT INCLUDES THE FINAL ENVIRONMENTAL DOCUMENTATION REQUIRED BY SECTION 7-45-106 (1) (b) (IV), THE OPERATING PLAN FOR THE PROJECT, THE TECHNOLOGY TO BE UTILIZED, AN ASSESSMENT OF PROJECT FEASIBILITY, AND AN ASSESSMENT OF THE LONG-TERM VIABILITY OF THE PROJECT.

(3) (a) AT THE DISCRETION OF A METROPOLITAN PLANNING ORGANIZATION OR REGIONAL PLANNING COMMISSION, A REGIONAL PLAN MAY INITIALLY BE AMENDED TO INCLUDE ONLY ENVIRONMENTAL AND PRECONSTRUCTION ACTIVITIES, EXCLUDING RIGHT-OF-WAY ACQUISITION, RELATING TO A TOLL ROAD OR TOLL HIGHWAY PROJECT AND MAY LATER BE AMENDED TO INCLUDE ACTUAL CONSTRUCTION AND RIGHT-OF-WAY ACQUISITION OF THE PROJECT FOLLOWING AGREEMENT BY THE METROPOLITAN PLANNING ORGANIZATION OR REGIONAL PLANNING COMMISSION THAT ACCEPTABLE ENVIRONMENTAL MITIGATION ACTIVITIES AND COMMITMENTS TO OFFSET INCREMENTAL COSTS OF PUBLIC SERVICES ARE INCLUDED IN THE PROJECT PLANS.

(b) UPON REQUEST OF A LOCAL GOVERNMENT LOCATED IN WHOLE OR IN PART WITHIN THE THREE-MILE CORRIDOR OF A PROPOSED TOLL ROAD OR TOLL HIGHWAY OR TOLL ROAD OR TOLL HIGHWAY PROJECT AS SPECIFIED PURSUANT TO SECTION 7-45-101 (1), A TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL CONSULT WITH REPRESENTATIVES FROM THE LOCAL GOVERNMENT AND SHALL CONSIDER AVAILABLE MITIGATION OF DEMONSTRABLE NEGATIVE IMPACTS ON THE LOCAL GOVERNMENT OR ITS CITIZENS THAT WOULD RESULT FROM THE CONSTRUCTION, OPERATION, OR FINANCING OF THE TOLL ROAD OR TOLL HIGHWAY OR PROJECT.

**7-45-106. Environmental standards and review.** (1) (a) BEFORE CONSTRUCTING AND OPERATING A TOLL ROAD OR TOLL HIGHWAY OR ANY

OTHER ELEMENT OF A TOLL ROAD OR TOLL HIGHWAY PROJECT, A TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL PREPARE, AT ITS OWN EXPENSE, ENVIRONMENTAL DOCUMENTATION THAT COMPLIES WITH THE ENVIRONMENTAL STEWARDSHIP GUIDE APPROVED BY THE TRANSPORTATION COMMISSION IN MAY 2005. THE DOCUMENTATION SHALL DESCRIBE THE ENVIRONMENTAL, SOCIAL, AND ECONOMIC EFFECTS OF THE PROPOSED TOLL ROAD, TOLL HIGHWAY, OR PROJECT, IDENTIFY FEASIBLE MEASURES TO AVOID OR OTHERWISE MITIGATE THE ADVERSE EFFECTS OF THE PROJECT, AND ESTIMATE THE FINANCIAL COSTS TO IMPLEMENT MITIGATION MEASURES THAT ARE INCLUDED IN THE PROJECT OR HAVE BEEN PREVIOUSLY RECOMMENDED IN WRITING BY THE COMMENTING STATE AGENCIES OR AN AFFECTED METROPOLITAN PLANNING ORGANIZATION OR REGIONAL TRANSPORTATION COMMISSION AND COMPLY WITH FEDERAL AND STATE AIR AND WATER QUALITY STANDARDS, APPROVALS, AND PERMITS.

(b) (I) A TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL NOT BEGIN WORK ON ENVIRONMENTAL DOCUMENTATION REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (1) UNTIL IT HAS OBTAINED PRELIMINARY APPROVAL FROM THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION THAT THE SCOPE OF THE PLANNED ENVIRONMENTAL DOCUMENTATION IS CONSISTENT WITH THE ENVIRONMENTAL STEWARDSHIP GUIDE ISSUED BY THE DEPARTMENT IN MAY 2005 AND ALL OTHER REQUIREMENTS OF PARAGRAPH (a) OF THIS SUBSECTION (1).

(II) A TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL PROVIDE A COPY OF ANY DRAFT ENVIRONMENTAL DOCUMENTATION IT PREPARES AS REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (1) TO THE COMMENTING STATE AGENCIES, AFFECTED METROPOLITAN PLANNING ORGANIZATIONS AND REGIONAL PLANNING COMMISSIONS, AND AFFECTED LOCAL GOVERNMENTS. THE TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL ALSO MAKE THE DRAFT ENVIRONMENTAL DOCUMENTATION ELECTRONICALLY OR OTHERWISE AVAILABLE TO THE PUBLIC. THE COMMENTING STATE AGENCIES MAY, WITHIN SIXTY DAYS, PROVIDE THE TOLL ROAD OR TOLL HIGHWAY COMPANY AND AFFECTED METROPOLITAN PLANNING ORGANIZATIONS AND REGIONAL PLANNING COMMISSIONS WITH THEIR ANALYSES OF THE ADEQUACY OF THE ENVIRONMENTAL DOCUMENTATION AND SHALL MAKE THE ANALYSES AVAILABLE TO THE PUBLIC.

(III) EACH OF THE COMMENTING AGENCIES MAY CHARGE A FEE TO A TOLL ROAD OR TOLL HIGHWAY COMPANY TO COVER THE REASONABLE



EXPENSES THAT IT INCURRED IN FULFILLING THE REQUIREMENTS OF SUBPARAGRAPHS (I) AND (II), AS APPLICABLE, OF THIS PARAGRAPH (b).

(IV) A TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL PREPARE FINAL ENVIRONMENTAL DOCUMENTATION THAT ADDRESSES COMMENTS RECEIVED FROM THE COMMENTING STATE AGENCIES, METROPOLITAN PLANNING ORGANIZATIONS, REGIONAL PLANNING COMMISSIONS, AND OTHER INTERESTED PARTIES. THE FINAL ENVIRONMENTAL DOCUMENTATION SHALL BE MADE AVAILABLE TO THE DEPARTMENT OF TRANSPORTATION AND THE PUBLIC AT LEAST THIRTY DAYS PRIOR TO PUBLICATION OF ANY NOTICE OF HEARING SCHEDULED BY THE COMMISSION PURSUANT TO SUBSECTION (2) OF THIS SECTION.

(2) THE TRANSPORTATION COMMISSION CREATED IN SECTION 43-1-106, C.R.S., SHALL NOT REVISE THE COMPREHENSIVE STATEWIDE TRANSPORTATION PLAN PREPARED PURSUANT TO SECTION 43-1-1103 (5), C.R.S., TO INCLUDE A TOLL ROAD, TOLL HIGHWAY, OR TOLL ROAD OR TOLL HIGHWAY PROJECT SUBJECT TO THE REQUIREMENTS OF THIS SECTION UNLESS THE COMMISSION, AFTER HOLDING A PUBLIC HEARING, DETERMINES THAT:

(a) THE REQUIREMENTS OF SECTION 7-45-105 AND SUBSECTION (1) OF THIS SECTION HAVE BEEN MET;

(b) THE TOLL ROAD, TOLL HIGHWAY, OR PROJECT IS:

(I) NECESSARY TO MEET THE TRANSPORTATION NEEDS OF THE STATE;

(II) CONSISTENT WITH SECTION 43-1-1103 (5), C.R.S., AND THE POLICIES OF THE TRANSPORTATION COMMISSION;

(III) CONSISTENT WITH 23 U.S.C. SEC. 135; AND

(IV) IN THE PUBLIC INTEREST.

(c) THE TOLL ROAD, TOLL HIGHWAY, OR PROJECT SPONSOR HAS ESTABLISHED A RESERVE FUND, PERFORMANCE BOND, OR OTHER APPROPRIATE MECHANISM TO ENSURE FULL PAYMENT OF THE COSTS OF COMPLIANCE WITH FEDERAL AND STATE AIR AND WATER QUALITY STANDARDS, OTHER FEDERAL AND STATE ENVIRONMENTAL REQUIREMENTS, AND MITIGATION MEASURES INCLUDED IN THE TOLL ROAD, TOLL HIGHWAY,

OR PROJECT OR REQUIRED BY THE TRANSPORTATION COMMISSION, A METROPOLITAN PLANNING ORGANIZATION, OR A REGIONAL PLANNING COMMISSION; AND

(d) THE TOLL ROAD, TOLL HIGHWAY, OR PROJECT SPONSOR HAS ENTERED INTO ENFORCEABLE AGREEMENTS WITH THE DEPARTMENT OF TRANSPORTATION, OR AGREEMENTS WITH AFFECTED LOCAL GOVERNMENTS THAT ARE ACCEPTABLE TO THE TRANSPORTATION COMMISSION, TO ENSURE THAT MITIGATION MEASURES INCLUDED IN THE PROJECT OR REQUIRED BY THE TRANSPORTATION COMMISSION, A METROPOLITAN PLANNING ORGANIZATION, OR A REGIONAL PLANNING COMMISSION WILL BE IMPLEMENTED.

(3) THE TRANSPORTATION COMMISSION MAY CONDITION ITS ADDITION OF A TOLL ROAD OR TOLL HIGHWAY OR A TOLL ROAD OR TOLL HIGHWAY PROJECT INTO THE COMPREHENSIVE STATEWIDE TRANSPORTATION PLAN UPON ADDITIONAL MITIGATION MEASURES IF THE COMMISSION DETERMINES THAT THE MITIGATION MEASURES ARE IN THE BEST OVERALL PUBLIC INTEREST TAKING INTO CONSIDERATION:

(a) THE NEED FOR FAST, SAFE, AND EFFICIENT TRANSPORTATION;

(b) PUBLIC SERVICES;

(c) THE COSTS OF ELIMINATING OR MINIMIZING THE ADVERSE EFFECTS FOR WHICH THE MITIGATION MEASURES ARE PROPOSED;

(d) ENVIRONMENTAL, SOCIAL, AND ECONOMIC VALUES; AND

(e) THE FINANCIAL FEASIBILITY OF THE TOLL ROAD, TOLL HIGHWAY, OR PROJECT.

**7-45-107. Construction safety standards.** WHEN CONSTRUCTING AND MAINTAINING A TOLL ROAD OR TOLL HIGHWAY OR ANY OTHER ELEMENT OF A TOLL ROAD OR TOLL HIGHWAY PROJECT, A TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL COMPLY WITH ALL DEPARTMENT OF TRANSPORTATION SAFETY STANDARDS FOR STATE TRANSPORTATION PROJECTS.

**7-45-108. County clerk notification.** (1) WITHIN NINETY DAYS OF

FILING A FORMATION DOCUMENT PURSUANT TO SECTION 7-45-101, A TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL:

(a) CAUSE WRITTEN NOTICE TO BE SENT TO AND RECORDED BY THE CLERK AND RECORDER OF EACH COUNTY THAT INCLUDES TERRITORY THAT IS INCLUDED WITHIN THE THREE-MILE CORRIDOR SPECIFIED IN THE FILED FORMATION DOCUMENT OF THE INTENT OF THE TOLL ROAD OR TOLL HIGHWAY COMPANY TO CONSTRUCT A TOLL ROAD, TOLL HIGHWAY, OR TOLL ROAD OR TOLL HIGHWAY PROJECT WITHIN THAT CORRIDOR AND SHALL MAIL THE WRITTEN NOTICE TO EACH PERSON WHO OWNS REAL PROPERTY WITHIN THE THREE-MILE CORRIDOR. THE TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL SEND THE NOTICE BY CERTIFIED MAIL AND SHALL GENERALLY DESCRIBE THE PROPOSED TOLL ROAD, TOLL HIGHWAY, OR PROJECT, INCLUDING ITS LOCATION, TERMINI, IMPROVEMENTS, AND OPERATION. THE NOTICE SHALL ALSO EXPLAIN THAT THE PROJECT MAY NOT GO FORWARD UNTIL THE PROCESS FOR APPROVING THE PROJECT REQUIRED BY THIS ARTICLE HAS BEEN COMPLETED, SUMMARIZE THE APPROVAL PROCESS, IDENTIFY OPPORTUNITIES DURING THE PROCESS FOR PUBLIC INVOLVEMENT, AND PROVIDE A CONTACT FOR ADDITIONAL INFORMATION.

(b) FILE A DISCLAIMER OF INTEREST AND MAP OF THE THREE-MILE CORRIDOR WITH THE CLERK AND RECORDER'S OFFICE IN THE COUNTY OF RESIDENCE OF EACH PERSON TO WHOM THE COMPANY PROVIDED WRITTEN NOTICE PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1) THAT EXPRESSLY STATES THAT THE FILED FORMATION DOCUMENT DOES NOT EFFECT AN INTEREST IN THE PERSON'S REAL PROPERTY WITHIN THE THREE-MILE CORRIDOR SPECIFIED IN THE FILED FORMATION DOCUMENT.

(2) A TOLL ROAD OR TOLL HIGHWAY COMPANY THAT HAS FILED A FORMATION DOCUMENT PRIOR TO THE EFFECTIVE DATE OF THIS SUBSECTION (2) AND THAT HAS NOT SATISFIED THE NOTICE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION SHALL FILE A NEW OR AMENDED FORMATION DOCUMENT WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SUBSECTION (2) THAT INCLUDES THE INFORMATION REQUIRED BY SECTION 7-45-101 (1) AND THAT CERTIFIES THAT THE COMPANY HAS COMPLIED WITH OR WILL COMPLY WITH THE REQUIREMENTS OF SAID SUBSECTION (1) WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SUBSECTION (2).

(3) COMPLIANCE WITH THE NOTIFICATION AND FILING

REQUIREMENTS OF SUBSECTIONS (1) AND (2) OF THIS SECTION SHALL CONSTITUTE COMPLIANCE WITH THE NOTIFICATION, FILING, AND RECORDING REQUIREMENTS OF SECTION 38-2-101 (2), C.R.S., AS ENACTED BY SENATE BILL 06-115, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-FIFTH GENERAL ASSEMBLY.

**7-45-109. Use of land by toll road or toll highway company - right to repurchase unneeded condemned property.** ANY INTEREST IN REAL PROPERTY THAT IS OBTAINED BY A TOLL ROAD OR TOLL HIGHWAY COMPANY, OTHER THAN A LEASEHOLD INTEREST IN PROPERTY OR RIGHTS-OF-WAY ACQUIRED AND OWNED BY THE DEPARTMENT OF TRANSPORTATION AS AUTHORIZED IN SECTION 7-45-104, WITHIN THE THREE-MILE CORRIDOR SPECIFIED IN ITS FILED FORMATION DOCUMENT AND THAT IS NOT USED FOR A TOLL ROAD OR TOLL HIGHWAY PROJECT SHALL NOT BE USED FOR COMMERCIAL, RESIDENTIAL, OR INDUSTRIAL DEVELOPMENT; EXCEPT THAT, THIS LIMITATION ON USE SHALL APPLY ONLY DURING THE PERIOD IN WHICH THE TOLL ROAD OR TOLL HIGHWAY COMPANY IS DEVELOPING OR OPERATING A TOLL ROAD OR TOLL HIGHWAY WITHIN THE CORRIDOR. IF THE DEVELOPMENT OR OPERATION OF A TOLL ROAD OR TOLL HIGHWAY CEASES AFTER THE DEPARTMENT HAS EXERCISED THE POWER OF EMINENT DOMAIN TO ACQUIRE PROPERTY DEEMED AT THE TIME OF ACQUISITION TO BE NECESSARY FOR THE COMPLETION OF THE TOLL ROAD OR TOLL HIGHWAY AS AUTHORIZED IN SECTION 7-45-104, A PERSON FROM WHOM THE DEPARTMENT ACQUIRED PROPERTY THROUGH THE EXERCISE OF EMINENT DOMAIN HAS AN EXCLUSIVE OPTION TO REPURCHASE THE PROPERTY ACQUIRED AT THE PRICE PAID FOR THE PROPERTY AS JUST COMPENSATION BY THE DEPARTMENT. THE PERSON MAY EXERCISE THE OPTION WITHIN EIGHTEEN MONTHS FOLLOWING THE CESSATION OF THE DEVELOPMENT OR OPERATION OF THE TOLL ROAD OR TOLL HIGHWAY.

**7-45-110. Sale of interest in or assets of a toll road or toll highway company.** (1) IF ANY INTEREST IN A TOLL ROAD OR TOLL HIGHWAY COMPANY IS SOLD OR TRANSFERRED, THE TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL CONTINUE TO COMPLY WITH THE LIMITATIONS SET FORTH IN SECTION 7-45-109.

(2) IF A TOLL ROAD OR TOLL HIGHWAY COMPANY SELLS OR TRANSFERS ANY INTEREST IN ITS REAL PROPERTY WITHIN THE THREE-MILE CORRIDOR SPECIFIED IN ITS FILED FORMATION DOCUMENT THAT IS NOT USED FOR THE TOLL ROAD OR TOLL HIGHWAY, THEN THE PURCHASER SHALL

COMPLY WITH THE LIMITATIONS SET FORTH IN SECTION 7-45-109.

(3) IF A TOLL ROAD, TOLL HIGHWAY, OR TOLL ROAD OR TOLL HIGHWAY PROJECT IS INCLUDED IN THE COMPREHENSIVE STATEWIDE TRANSPORTATION PLAN REQUIRED PURSUANT TO SECTION 43-1-1103 (5), C.R.S., BEFORE THE TOLL ROAD OR TOLL HIGHWAY COMPANY COMPLETES A SUBSEQUENT SALE OR TRANSFER OF ASSETS OR RIGHTS GENERATING MORE THAN TWENTY PERCENT OF THE CURRENT REVENUE FROM THE TOLL ROAD, TOLL HIGHWAY, OR PROJECT, THE PURCHASER MUST DEMONSTRATE TO THE TRANSPORTATION COMMISSION, AND THE COMMISSION MUST DETERMINE, THAT FOLLOWING THE SALE OR TRANSFER THE RESOURCES NEEDED TO COMPLY WITH FEDERAL AND STATE WATER QUALITY STANDARDS AND OTHER FEDERAL AND STATE ENVIRONMENTAL REQUIREMENTS AND TO IMPLEMENT MITIGATION MEASURES THAT WERE INCLUDED IN THE TOLL ROAD OR TOLL HIGHWAY PROJECT DESCRIPTION OR REQUIRED BY A METROPOLITAN PLANNING ORGANIZATION, A REGIONAL PLANNING COMMISSION, OR THE TRANSPORTATION COMMISSION WILL STILL BE AVAILABLE FOR THOSE PURPOSES.

**7-45-111. Public-private initiatives.** NOTHING CONTAINED IN THIS ARTICLE SHALL PROHIBIT A TOLL ROAD OR TOLL HIGHWAY COMPANY FROM ENTERING INTO A PUBLIC-PRIVATE INITIATIVE WITH THE DEPARTMENT OF TRANSPORTATION IN ACCORDANCE WITH THE PROVISIONS OF PART 12 OF ARTICLE 1 OF TITLE 43, C.R.S., FOR THE PURPOSE OF ENABLING THE CONSTRUCTION OF A TOLL ROAD, TOLL HIGHWAY, OR PROJECT. ANY SUCH PROJECT SHALL COMPLY WITH THE REQUIREMENTS OF THIS ARTICLE.

**SECTION 2.** 38-2-101 (2), (3), and (4), Colorado Revised Statutes, as amended by Senate Bill 06-115, enacted at the Second Regular Session of the Sixty-fifth General Assembly, are amended, and the said 38-2-101 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**38-2-101. Who may condemn real estate, rights-of-way, or other rights - additional requirements for private toll roads and toll highways.** (2) Notwithstanding the provisions of subsection (1) of this section, a ~~corporation formed for the purpose of constructing a private~~ toll road or toll highway COMPANY may not condemn real estate or right-of-way, but the department of transportation may exercise, subject to the conditions and limitations set forth in sections 7-45-104 and 43-1-1202 (1) (f), C.R.S., the power of eminent domain ~~in connection with a toll road~~

~~or toll highway project~~ FOR PURPOSES OF ACQUIRING PROPERTY AND RIGHTS-OF-WAY NECESSARY FOR THE COMPLETION OF A TOLL ROAD OR TOLL HIGHWAY OPEN TO THE PUBLIC THAT IS INCORPORATED INTO THE COMPREHENSIVE STATEWIDE TRANSPORTATION PLAN PREPARED PURSUANT TO SECTION 43-1-1103 (5), C.R.S., AND IS BEING UNDERTAKEN AS A PUBLIC-PRIVATE INITIATIVE BETWEEN THE DEPARTMENT AND ~~SUCH A CORPORATION~~ THE COMPANY. SUCH A ~~CORPORATION~~ TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL, WITHIN SIX MONTHS AFTER THE DATE OF ~~ITS INCORPORATION~~ FILING OF ITS FILED FORMATION DOCUMENT, FILE AND RECORD WITH THE COUNTY CLERK AND RECORDER OF EACH COUNTY THROUGH WHICH ANY PORTION OF THE PROPOSED TOLL ROAD OR TOLL HIGHWAY WILL PASS A MAP OR SURVEY OF THE PROPOSED ROUTE OF THE TOLL ROAD OR TOLL HIGHWAY. THE ~~CORPORATION~~ TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL INCLUDE WITH THE MAP OR SURVEY A STATEMENT OF THE PROPOSED ROUTE OF THE TOLL ROAD OR TOLL HIGHWAY, WITHIN THREE MILES, AND A LISTING OF ALL PROPERTY OVER OR ACROSS WHICH THE PROPOSED TOLL ROAD OR TOLL HIGHWAY WILL BE CONSTRUCTED, AND SHALL FILE AND RECORD SUPPLEMENTARY MAPS, SURVEYS, STATEMENTS, AND LISTINGS UPON ANY LAWFUL CHANGE OF THE PROPOSED ROUTE OF THE TOLL ROAD OR TOLL HIGHWAY.

(3) Nothing in this section shall be construed to authorize any ~~corporation~~ TOLL ROAD OR TOLL HIGHWAY COMPANY to construct a ~~private~~ toll road or toll highway through, in, upon, under, or over any street or alley of any city, incorporated town, county, or city and county without first obtaining the consent of the municipal or county authorities having power to give the consent of the city, incorporated town, county, or city and county.

(4) (a) A political subdivision may levy a tax, fee, or charge ON A TOLL ROAD OR TOLL HIGHWAY COMPANY for any right or privilege of constructing or operating a ~~private~~ toll road or toll highway such as a street or public highway construction permit fee or an impact fee or other similar development charge designed to fund expenditures by the political subdivision on capital facilities needed to serve the toll road or toll highway, but shall only levy a construction permit fee to the extent that the permit fee applies to all persons seeking a construction permit.

(b) All permit fees, impact fees, or other similar development charges levied by a political subdivision on a ~~corporation~~ TOLL ROAD OR TOLL HIGHWAY COMPANY constructing or operating a ~~private~~ toll road or toll highway shall be no greater than necessary to defray the costs directly

incurred by the political subdivision in providing services, and, in the case of impact fees or other development charges, shall be no greater than necessary to defray impacts directly related to the toll road or toll highway. The fees and charges shall also be reasonably related in time to the incurrence of the impacts or costs. In any controversy concerning the appropriateness of a fee or charge, the political subdivision shall have the burden of proving that the fee or charge is no greater than necessary to defray the direct impacts or costs incurred by the political subdivision. All costs of construction shall be borne by the ~~corporation~~ TOLL ROAD OR TOLL HIGHWAY COMPANY constructing or operating the toll road or toll highway.

(5) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "FILED FORMATION DOCUMENT" SHALL HAVE THE MEANING SET FORTH IN SECTION 7-45-102 (7), C.R.S.

(b) "TOLL ROAD OR TOLL HIGHWAY" SHALL HAVE THE MEANING SET FORTH IN SECTION 7-45-102 (8), C.R.S.

(c) "TOLL ROAD OR TOLL HIGHWAY COMPANY" SHALL HAVE THE MEANING SET FORTH IN SECTION 7-45-102 (9), C.R.S.

**SECTION 3.** Part 3 of article 3 of title 43, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

PART 3  
TOLL ROADS AND TOLL HIGHWAYS - PRIVATE

**43-3-301. Definitions.** AS USED IN THIS PART 3, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "TOLL ROAD" OR "TOLL HIGHWAY" SHALL HAVE THE MEANING SET FORTH IN SECTION 7-45-102 (8), C.R.S.

(2) "TOLL ROAD OR TOLL HIGHWAY COMPANY" SHALL HAVE THE MEANING SET FORTH IN SECTION 7-45-102 (9), C.R.S.

**43-3-302. Traffic laws - toll collection - definitions.** (1) (a) THE

TRANSPORTATION COMMISSION SHALL REVIEW A TOLL ROAD OR TOLL HIGHWAY COMPANY'S TOLL SCHEDULE AS PART OF THE PROJECT DESCRIPTION SUBMITTED FOR APPROVAL AS PART OF THE STATEWIDE TRANSPORTATION PLAN AND EVERY FIVE YEARS THEREAFTER IF EMINENT DOMAIN IS USED BY THE DEPARTMENT OF TRANSPORTATION TO ACQUIRE ANY PART OF THE RIGHT-OF-WAY FOR A TOLL ROAD OR TOLL HIGHWAY. THE REVIEW SHALL BE LIMITED TO DETERMINING WHETHER A REDUCED TOLL MAY BE IMPOSED ON HIGH OCCUPANCY VEHICLES AND PUBLIC MASS TRANSIT VEHICLES IN ORDER TO ENCOURAGE THE USE OF SUCH VEHICLES ON THE TOLL ROAD OR TOLL HIGHWAY.

(b) AS USED IN THIS SUBSECTION (1):

(I) "HIGH OCCUPANCY VEHICLES" MEANS VEHICLES THAT CARRY AT LEAST THE NUMBER OF PERSONS SPECIFIED BY THE TRANSPORTATION COMMISSION.

(II) "PUBLIC MASS TRANSIT VEHICLES" MEANS VEHICLES OTHER THAN CHARTER OR SIGHTSEEING VEHICLES THAT:

(A) ARE OPERATED BY OR UNDER CONTRACT WITH THE REGIONAL TRANSPORTATION DISTRICT CREATED PURSUANT TO ARTICLE 9 OF TITLE 32, C.R.S., OR A REGIONAL TRANSPORTATION AUTHORITY CREATED PURSUANT TO PART 6 OF ARTICLE 4 OF THIS TITLE; AND

(B) PROVIDE REGULAR AND CONTINUING GENERAL OR SPECIAL TRANSPORTATION TO THE PUBLIC.

(c) IN DETERMINING WHETHER A REDUCED TOLL MAY BE IMPOSED ON HIGH OCCUPANCY VEHICLES AND PUBLIC MASS TRANSIT VEHICLES, THE TRANSPORTATION COMMISSION SHALL ENSURE THAT THE REDUCED TOLL DOES NOT LIMIT OR PRECLUDE A TOLL ROAD OR TOLL HIGHWAY COMPANY'S:

(I) RECOVERY OF THE COSTS ASSOCIATED WITH OPERATIONS, TOLL COLLECTION, AND ADMINISTRATION; AND

(II) REPAYMENT OF THE COMPANY'S CAPITAL OUTLAY COSTS FOR THE PROJECT AND RECOVERY OF A REASONABLE RETURN ON THE COMPANY'S INVESTMENT.



(2) STATE AND LOCAL LAW ENFORCEMENT AUTHORITIES ARE AUTHORIZED TO ENTER INTO TRAFFIC AND TOLL ENFORCEMENT AGREEMENTS WITH A TOLL ROAD OR TOLL HIGHWAY COMPANY. ANY FUNDS RECEIVED BY A STATE LAW ENFORCEMENT AUTHORITY PURSUANT TO A TOLL ENFORCEMENT AGREEMENT SHALL BE SUBJECT TO ANNUAL APPROPRIATIONS BY THE GENERAL ASSEMBLY TO THE LAW ENFORCEMENT AUTHORITY FOR THE PURPOSE OF PERFORMING ITS DUTIES PURSUANT TO THE AGREEMENT.

(3) A TOLL ROAD OR TOLL HIGHWAY COMPANY MAY ADOPT RULES PERTAINING TO THE ENFORCEMENT OF TOLL COLLECTION AND EVASION AND PROVIDING A CIVIL PENALTY FOR TOLL EVASION. THE CIVIL PENALTY ESTABLISHED BY A TOLL ROAD OR TOLL HIGHWAY COMPANY FOR ANY TOLL EVASION SHALL BE NOT LESS THAN TEN DOLLARS NOR MORE THAN TWO HUNDRED FIFTY DOLLARS, IN ADDITION TO ANY COSTS IMPOSED BY A COURT. A COMPANY MAY USE STATE OF THE ART TECHNOLOGY, INCLUDING BUT NOT LIMITED TO AUTOMATIC VEHICLE IDENTIFICATION PHOTOGRAPHY, TO AID IN THE COLLECTION OF TOLLS AND ENFORCEMENT OF TOLL VIOLATIONS. THE USE OF STATE OF THE ART TECHNOLOGY TO AID IN ENFORCEMENT OF TOLL VIOLATIONS SHALL BE GOVERNED SOLELY BY THIS SECTION.

(4) (a) ANY PERSON WHO EVADES A TOLL ESTABLISHED BY A TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL BE SUBJECT TO THE CIVIL PENALTY ESTABLISHED BY THAT COMPANY FOR TOLL EVASION. ANY PEACE OFFICER AS DESCRIBED IN SECTION 16-2.5-101, C.R.S., SHALL HAVE THE AUTHORITY TO ISSUE CIVIL PENALTY ASSESSMENTS OR MUNICIPAL SUMMONS AND COMPLAINTS IF AUTHORIZED PURSUANT TO A MUNICIPAL ORDINANCE FOR THE TOLL EVASION.

(b) AT ANY TIME THAT A PERSON IS CITED FOR TOLL EVASION, THE PERSON OPERATING THE MOTOR VEHICLE INVOLVED SHALL BE GIVEN EITHER A NOTICE IN THE FORM OF A CIVIL PENALTY ASSESSMENT NOTICE OR A MUNICIPAL SUMMONS AND COMPLAINT. IF A CIVIL PENALTY ASSESSMENT IS ISSUED, THE NOTICE SHALL BE TENDERED BY A PEACE OFFICER AS DESCRIBED IN SECTION 16-2.5-101, C.R.S., AND SHALL CONTAIN THE NAME AND ADDRESS OF THE PERSON, THE LICENSE NUMBER OF THE MOTOR VEHICLE INVOLVED, THE NUMBER OF THE PERSON'S DRIVER'S LICENSE, THE NATURE OF THE VIOLATION, THE AMOUNT OF THE PENALTY PRESCRIBED FOR THE VIOLATION, THE DATE OF THE NOTICE, A PLACE FOR THE PERSON TO EXECUTE A SIGNED ACKNOWLEDGMENT OF THE PERSON'S RECEIPT OF THE CIVIL PENALTY ASSESSMENT NOTICE, A PLACE FOR THE PERSON TO EXECUTE A

SIGNED ACKNOWLEDGMENT OF LIABILITY FOR THE CITED VIOLATION, AND SUCH OTHER INFORMATION AS MAY BE REQUIRED BY LAW TO CONSTITUTE THE NOTICE AS A COMPLAINT TO APPEAR FOR ADJUDICATION OF TOLL EVASION PURSUANT TO THIS SECTION IF THE PRESCRIBED TOLL, FEE, AND CIVIL PENALTY ARE NOT PAID WITHIN TWENTY DAYS. EVERY CITED PERSON SHALL EXECUTE THE SIGNED ACKNOWLEDGMENT OF THE PERSON'S RECEIPT OF THE CIVIL PENALTY ASSESSMENT NOTICE.

(c) THE ACKNOWLEDGMENT OF LIABILITY SHALL BE EXECUTED AT THE TIME THE CITED PERSON PAYS THE PRESCRIBED PENALTY. THE PERSON CITED SHALL PAY THE TOLL, FEE, AND CIVIL PENALTY AUTHORIZED BY THE TOLL ROAD OR TOLL HIGHWAY COMPANY INVOLVED AT THE OFFICE OF THE COMPANY, EITHER IN PERSON OR BY POSTMARKING THE PAYMENT WITHIN TWENTY DAYS OF THE CITATION. IF THE PERSON CITED DOES NOT PAY THE PRESCRIBED TOLL, FEE, AND CIVIL PENALTY WITHIN TWENTY DAYS OF THE NOTICE, THE CIVIL PENALTY ASSESSMENT NOTICE SHALL CONSTITUTE A COMPLAINT TO APPEAR FOR ADJUDICATION OF TOLL EVASION IN COURT OR IN AN ADMINISTRATIVE TOLL ENFORCEMENT PROCEEDING, AND THE PERSON CITED SHALL, WITHIN THE TIME SPECIFIED IN THE CIVIL PENALTY ASSESSMENT NOTICE, FILE AN ANSWER TO THIS COMPLAINT IN THE MANNER SPECIFIED IN THE NOTICE.

(d) IF A MUNICIPAL SUMMONS AND COMPLAINT IS ISSUED, THE ADJUDICATION OF THE VIOLATION SHALL BE CONDUCTED AND THE FORMAT OF THE SUMMONS AND COMPLAINT SHALL BE DETERMINED PURSUANT TO THE TERMS OF THE MUNICIPAL ORDINANCE AUTHORIZING ISSUANCE OF SUCH A SUMMONS AND COMPLAINT. IN NO CASE SHALL THE PENALTY UPON CONVICTION FOR VIOLATION OF A MUNICIPAL ORDINANCE FOR TOLL EVASION EXCEED THE LIMIT ESTABLISHED IN SUBSECTION (3) OF THIS SECTION.

(5) (a) THE RESPECTIVE COURTS OF THE MUNICIPALITIES, COUNTIES, AND CITIES AND COUNTIES ARE GIVEN JURISDICTION TO TRY ALL CASES ARISING UNDER MUNICIPAL ORDINANCES AND STATE LAWS GOVERNING THE USE OF A TOLL ROAD OR TOLL HIGHWAY OPERATED BY A TOLL ROAD OR TOLL HIGHWAY COMPANY AND ARISING UNDER THE TOLL EVASION CIVIL PENALTY REGULATIONS ENACTED BY A TOLL ROAD OR TOLL HIGHWAY COMPANY. VENUE FOR SUCH CASES SHALL BE IN THE MUNICIPALITY, COUNTY, OR CITY AND COUNTY WHERE THE ALLEGED VIOLATION OF MUNICIPAL ORDINANCE OR STATE LAW OR OF THE CORPORATE REGULATION OCCURRED.

(b) AT THE REQUEST OF THE JUDICIAL DEPARTMENT, A TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL CONSIDER ESTABLISHING AN ADMINISTRATIVE TOLL ENFORCEMENT PROCESS AND MAY, BY RESOLUTION, ADOPT RULES CREATING SUCH A PROCESS. THE RULES PERTAINING TO THE ADMINISTRATIVE ENFORCEMENT OF TOLL EVASION SHALL REQUIRE NOTICE TO THE PERSON CITED FOR TOLL EVASION AND PROVIDE TO THE PERSON AN OPPORTUNITY TO APPEAR AT AN OPEN HEARING CONDUCTED BY AN IMPARTIAL HEARING OFFICER AND A RIGHT TO APPEAL THE FINAL ADMINISTRATIVE DETERMINATION OF TOLL EVASION TO THE COUNTY COURT FOR THE COUNTY IN WHICH THE VIOLATION OCCURRED.

(c) IF A TOLL ROAD OR TOLL HIGHWAY COMPANY ESTABLISHES AN ADMINISTRATIVE TOLL ENFORCEMENT PROCESS, NO COURT OF A MUNICIPALITY, COUNTY, OR CITY AND COUNTY SHALL HAVE JURISDICTION TO HEAR TOLL EVASION CASES ARISING ON A PUBLIC HIGHWAY OPERATED BY THE COMPANY.

(d) A TOLL EVASION CASE MAY BE ADJUDICATED BY AN IMPARTIAL HEARING OFFICER IN AN ADMINISTRATIVE HEARING CONDUCTED PURSUANT TO THIS SECTION AND THE RULES PROMULGATED BY A TOLL ROAD OR TOLL HIGHWAY COMPANY. THE HEARING OFFICER SHALL BE AN INDEPENDENT CONTRACTOR OF THE TOLL ROAD OR TOLL HIGHWAY COMPANY.

(e) A TOLL ROAD OR TOLL HIGHWAY COMPANY MAY FILE A CERTIFIED COPY OF AN ORDER IMPOSING A TOLL, FEE, AND CIVIL PENALTY THAT IS ENTERED BY THE HEARING OFFICER IN AN ADJUDICATION OF A TOLL EVASION WITH THE CLERK OF THE COUNTY COURT IN THE COUNTY IN WHICH THE VIOLATION OCCURRED AT ANY TIME AFTER THE ORDER IS ENTERED. THE CLERK SHALL RECORD THE ORDER IN THE JUDGMENT BOOK OF THE COURT AND ENTER IT IN THE JUDGMENT DOCKET. THE ORDER SHALL HAVE THE EFFECT OF A JUDGMENT OF THE COUNTY COURT, AND THE COURT MAY EXECUTE THE ORDER AS IN THE OTHER CASES.

(f) AN ADMINISTRATIVE ADJUDICATION OF A TOLL EVASION BY A TOLL ROAD OR TOLL HIGHWAY COMPANY IS SUBJECT TO JUDICIAL REVIEW. THE ADMINISTRATIVE ADJUDICATION MAY BE APPEALED AS TO MATTERS OF LAW AND FACT TO THE COUNTY COURT FOR THE COUNTY IN WHICH THE VIOLATION OCCURRED. THE APPEAL SHALL BE A REVIEW OF THE RECORD OF THE ADMINISTRATIVE ADJUDICATION AND NOT A DE NOVO HEARING.

(g) NOTWITHSTANDING THE SPECIFIC REMEDIES PROVIDED BY THIS SECTION, A TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL HAVE EVERY REMEDY AVAILABLE UNDER THE LAW TO ENFORCE UNPAID TOLLS AND FEES AS DEBTS OWED TO THE TOLL ROAD OR TOLL HIGHWAY COMPANY.

(6) THE AGGREGATE AMOUNT OF PENALTIES, EXCLUSIVE OF COURT COSTS, COLLECTED AS A RESULT OF CIVIL PENALTIES IMPOSED PURSUANT TO RULES AUTHORIZED IN SUBSECTION (3) OF THIS SECTION SHALL BE REMITTED TO THE TOLL ROAD OR TOLL HIGHWAY COMPANY IN WHOSE NAME THE CIVIL PENALTY ASSESSMENT NOTICE WAS ISSUED AND SHALL BE APPLIED BY THE COMPANY TO DEFRAY THE COSTS AND EXPENSES OF ENFORCING THE LAWS OF THE STATE AND THE RULES OF THE COMPANY. IF A MUNICIPAL SUMMONS OR COMPLAINT IS ISSUED, THE AGGREGATE PENALTY SHALL BE APPORTIONED PURSUANT TO THE TERMS OF ANY ENFORCEMENT AGREEMENT.

(7) (a) IN ADDITION TO THE PENALTY ASSESSMENT PROCEDURE PROVIDED FOR IN SUBSECTION (4) OF THIS SECTION, WHERE AN INSTANCE OF TOLL EVASION IS EVIDENCED BY AUTOMATIC VEHICLE IDENTIFICATION PHOTOGRAPHY OR OTHER TECHNOLOGY NOT INVOLVING A PEACE OFFICER, A CIVIL PENALTY ASSESSMENT NOTICE MAY BE ISSUED AND SENT BY FIRST-CLASS MAIL, OR BY ANY MAIL DELIVERY SERVICE OFFERED BY AN ENTITY OTHER THAN THE UNITED STATES POSTAL SERVICE THAT IS EQUIVALENT TO OR SUPERIOR TO FIRST-CLASS MAIL WITH RESPECT TO DELIVERY SPEED, RELIABILITY, AND PRICE, BY THE TOLL ROAD OR TOLL HIGHWAY COMPANY TO THE REGISTERED OWNER OF THE MOTOR VEHICLE INVOLVED. THE NOTICE SHALL CONTAIN THE NAME AND ADDRESS OF THE REGISTERED OWNER OF THE VEHICLE INVOLVED, THE LICENSE NUMBER OF THE VEHICLE INVOLVED, THE TIME AND LOCATION OF THE VIOLATION, THE AMOUNT OF THE PENALTY PRESCRIBED FOR THE VIOLATION, A PLACE FOR THE REGISTERED OWNER OF THE VEHICLE TO EXECUTE A SIGNED ACKNOWLEDGMENT OF LIABILITY FOR THE CITED VIOLATION, AND SUCH OTHER INFORMATION AS MAY BE REQUIRED BY LAW TO CONSTITUTE THE NOTICE AS A COMPLAINT TO APPEAR FOR ADJUDICATION OF A TOLL EVASION CIVIL PENALTY ASSESSMENT. THE REGISTERED OWNER OF THE VEHICLE INVOLVED IN A TOLL EVASION SHALL BE LIABLE FOR THE TOLL, FEE, AND CIVIL PENALTY IMPOSED BY THE COMPANY, EXCEPT AS OTHERWISE PROVIDED BY PARAGRAPH (b) OF THIS SUBSECTION (7).

(b) IN ADDITION TO ANY OTHER LIABILITY PROVIDED FOR IN THIS SECTION, THE OWNER OF A MOTOR VEHICLE WHO IS ENGAGED IN THE

BUSINESS OF LEASING OR RENTING MOTOR VEHICLES IS LIABLE FOR PAYMENT OF A TOLL EVASION VIOLATION CIVIL PENALTY; EXCEPT THAT, AT THE DISCRETION OF THE OWNER:

(I) THE OWNER MAY OBTAIN PAYMENT FOR A TOLL EVASION VIOLATION CIVIL PENALTY FROM THE PERSON OR COMPANY WHO LEASED OR RENTED THE VEHICLE AT THE TIME OF THE TOLL EVASION THROUGH A CREDIT OR DEBIT CARD PAYMENT AND FORWARD THE PAYMENT ON TO THE TOLL ROAD OR TOLL HIGHWAY COMPANY; OR

(II) THE OWNER MAY SEEK TO AVOID LIABILITY FOR A TOLL EVASION VIOLATION CIVIL PENALTY IF THE OWNER OF THE LEASED OR RENTED MOTOR VEHICLE CAN FURNISH SUFFICIENT EVIDENCE THAT, AT THE TIME OF THE TOLL EVASION VIOLATION, THE VEHICLE WAS LEASED OR RENTED TO ANOTHER PERSON. TO AVOID LIABILITY FOR PAYMENT, THE OWNER OF THE MOTOR VEHICLE SHALL, WITHIN THIRTY DAYS AFTER RECEIPT OF THE NOTIFICATION OF THE TOLL EVASION VIOLATION, FURNISH TO THE TOLL ROAD OR TOLL HIGHWAY COMPANY AN AFFIDAVIT CONTAINING THE NAME, ADDRESS, AND STATE DRIVER'S LICENSE NUMBER OF THE PERSON OR COMPANY WHO LEASED OR RENTED THE VEHICLE. AS A CONDITION TO AVOID LIABILITY FOR PAYMENT OF A TOLL EVASION VIOLATION CIVIL PENALTY, ANY PERSON OR COMPANY WHO LEASES OR RENTS MOTOR VEHICLES TO A PERSON SHALL INCLUDE A NOTICE IN THE LEASING OR RENTAL AGREEMENT STATING THAT, PURSUANT TO THE REQUIREMENTS OF THIS SECTION, THE PERSON RENTING OR LEASING THE VEHICLE IS LIABLE FOR PAYMENT OF A TOLL EVASION VIOLATION CIVIL PENALTY INCURRED ON OR AFTER THE DATE THE PERSON RENTING OR LEASING THE VEHICLE TAKES POSSESSION OF THE MOTOR VEHICLE. THE NOTICE SHALL INFORM THE PERSON RENTING OR LEASING THE VEHICLE THAT THE PERSON'S NAME, ADDRESS, AND STATE DRIVER'S LICENSE NUMBER SHALL BE FURNISHED TO THE TOLL ROAD OR TOLL HIGHWAY COMPANY WHEN A TOLL EVASION VIOLATION CIVIL PENALTY IS INCURRED DURING THE TERM OF THE LEASE OR RENTAL AGREEMENT.

(c) IF THE PRESCRIBED PENALTY IS NOT PAID WITHIN TWENTY DAYS, IN ORDER TO ENSURE THAT ADEQUATE NOTICE HAS BEEN GIVEN, A TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL SEND A SECOND PENALTY ASSESSMENT NOTICE BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OR BY ANY MAIL DELIVERY SERVICE OFFERED BY AN ENTITY OTHER THAN THE UNITED STATES POSTAL SERVICE THAT IS EQUIVALENT TO OR SUPERIOR TO CERTIFIED MAIL, RETURN RECEIPT REQUESTED, WITH RESPECT TO RECEIPT

VERIFICATION AND DELIVERY SPEED, RELIABILITY, AND PRICE, CONTAINING THE SAME INFORMATION AS IS SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (7). THE NOTICE SHALL SPECIFY THAT THE REGISTERED OWNER OF THE VEHICLE MAY PAY THE SAME PENALTY ASSESSMENT AT ANY TIME PRIOR TO THE SCHEDULED HEARING. IF THE REGISTERED OWNER OF THE VEHICLE DOES NOT PAY THE PRESCRIBED TOLL, FEE, AND CIVIL PENALTY WITHIN TWENTY DAYS OF THE NOTICE, THE CIVIL PENALTY ASSESSMENT NOTICE SHALL CONSTITUTE A COMPLAINT TO APPEAR FOR ADJUDICATION OF A TOLL EVASION IN COURT OR IN AN ADMINISTRATIVE TOLL ENFORCEMENT PROCEEDING AND THE REGISTERED OWNER OF THE VEHICLE SHALL, WITHIN THE TIME SPECIFIED IN THE CIVIL PENALTY ASSESSMENT NOTICE, FILE AN ANSWER TO THE COMPLAINT IN THE MANNER SPECIFIED IN THE NOTICE. IF THE REGISTERED OWNER OF THE VEHICLE FAILS TO PAY IN FULL THE OUTSTANDING TOLL, FEE, AND CIVIL PENALTY SET FORTH IN THE NOTICE OR TO APPEAR AND ANSWER THE NOTICE AS SPECIFIED IN THE NOTICE, THE REGISTERED OWNER OF THE VEHICLE SHALL BE DEEMED TO HAVE ADMITTED LIABILITY AND TO HAVE WAIVED THE RIGHT TO A HEARING, AND A FINAL ORDER OF LIABILITY IN DEFAULT AGAINST THE REGISTERED OWNER OF THE VEHICLE MAY BE ENTERED.

(8) A COURT WITH JURISDICTION IN A TOLL EVASION CASE PURSUANT TO PARAGRAPH (a) OF SUBSECTION (5) OF THIS SECTION OR A TOLL ROAD OR TOLL HIGHWAY COMPANY WITH JURISDICTION IN A TOLL EVASION CASE PURSUANT TO PARAGRAPH (b) OF SUBSECTION (5) OF THIS SECTION MAY REPORT TO THE DEPARTMENT OF REVENUE ANY OUTSTANDING JUDGMENT OR WARRANT OR ANY FAILURE TO PAY THE TOLL, FEE, AND CIVIL PENALTY FOR ANY TOLL EVASION. UPON RECEIPT OF A CERTIFIED REPORT FROM A COURT OR A TOLL ROAD OR TOLL HIGHWAY COMPANY STATING THAT THE OWNER OF A REGISTERED VEHICLE HAS FAILED TO PAY A TOLL, FEE, AND CIVIL PENALTY RESULTING FROM A FINAL ORDER ENTERED BY THE TOLL ROAD OR TOLL HIGHWAY COMPANY, THE DEPARTMENT SHALL NOT RENEW THE VEHICLE REGISTRATION OF THE VEHICLE UNTIL THE TOLL, FEE, AND CIVIL PENALTY ARE PAID IN FULL. THE TOLL ROAD OR TOLL HIGHWAY COMPANY SHALL CONTRACT WITH AND COMPENSATE A VENDOR APPROVED BY THE DEPARTMENT FOR THE DIRECT COSTS ASSOCIATED WITH THE NONRENEWAL OF A VEHICLE REGISTRATION PURSUANT TO THIS SUBSECTION (8). THE DEPARTMENT HAS NO AUTHORITY TO ASSESS ANY POINTS AGAINST A LICENSE UNDER SECTION 42-2-127, C.R.S., UPON ENTRY OF A CONVICTION OR JUDGMENT FOR ANY TOLL EVASION.

**43-3-303. Toll roads must be kept in repair.** IT IS THE DUTY OF ALL OWNERS OR OPERATORS OF ROADS UPON WHICH TOLLS ARE CHARGED TO KEEP THEIR ROADS IN GOOD REPAIR AT ALL POINTS, AND THE CONDITION OF THE ROADS SHALL BE DETERMINED BY THE GRADE THEREOF AND THE SEASON OF THE YEAR IN WHICH THEY ARE USED.

**43-3-304. Noncompete agreements.** A TOLL ROAD OR TOLL HIGHWAY COMPANY MAY NOT ENTER INTO A NONCOMPETE AGREEMENT WITH A PUBLIC ENTITY IF THE AGREEMENT WOULD DEGRADE AN EXISTING ROADWAY OR EITHER DELAY OR PREVENT THE CONSTRUCTION OR UPGRADING OF A ROAD OR HIGHWAY THAT IS INCLUDED IN THE FISCALLY CONSTRAINED REGIONAL TRANSPORTATION PLAN REQUIRED BY SECTION 43-1-1103 (1) OR THE FISCALLY CONSTRAINED COMPREHENSIVE STATEWIDE TRANSPORTATION PLAN REQUIRED BY SECTION 43-1-1103 (5).

**SECTION 4. Safety clause.** The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

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Andrew Romanoff  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Joan Fitz-Gerald  
PRESIDENT OF  
THE SENATE

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Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

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Karen Goldman  
SECRETARY OF  
THE SENATE

APPROVED \_\_\_\_\_

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Bill Owens  
GOVERNOR OF THE STATE OF COLORADO