

SB140\_L.001

## HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Local Government.SB17-140 be amended as follows:

1 Amend reengrossed bill, page 2, after line 17 insert:

2 "SECTION 2. In Colorado Revised Statutes, 38-36-136, amend  
3 (1) as follows:

4 **38-36-136. Registered land to remain under this article unless**  
5 **removed from registration.** (1) Unless removed from registration in the  
6 manner stated in this section, SECTION 38-36-204, OR SECTION 38-36-205,  
7 the obtaining of a decree of registration and receiving of a certificate of  
8 title shall be deemed an agreement running with the land and binding  
9 upon the applicant and the successors in title that the land is and remains  
10 registered land and subject to the provisions of this article ARTICLE 36 and  
11 of all amendments thereto. All dealings with the land or any estate or  
12 interest therein after the same has been brought under this article ARTICLE  
13 36, and all liens, encumbrances, and charges upon the same shall be made  
14 only subject to the terms of this article ARTICLE 36. The owner, or his  
15 agent or attorney, of any real property registered under the terms of this  
16 article ARTICLE 36 may, at any time, withdraw said real property  
17 registration from the operation of this article ARTICLE 36 by surrendering  
18 to the registrar his duplicate certificate of ownership, duly endorsed with  
19 a signed and acknowledged request for such withdrawal.

20 **SECTION 3. In Colorado Revised Statutes, add part 2 to article**  
21 **36 of title 38 as follows:**

## PART 2

## TORRENS CONCLUSION

24 **38-36-201. Short title.** THE SHORT TITLE OF THIS PART 2 IS "THE  
25 CONCLUSION OF THE TORRENS TITLE REGISTRATION ACT".

26 **38-36-202. Definitions.** AS USED IN THIS PART 2, UNLESS THE  
27 CONTEXT OTHERWISE REQUIRES:

28 (1) "ADVERSE INSTRUMENT" MEANS ANY DOCUMENT,  
29 INSTRUMENT, PAPER, OR ORDER THAT ADVERSELY AFFECTS, BUT DOES NOT  
30 CONVEY, THE FEE TITLE TO REGISTERED LAND, AND THE VALIDITY OF  
31 WHICH IS NOT DEPENDENT UPON CONSENT BY AN OWNER OF THE  
32 REGISTERED LAND OR SOME PERSON CLAIMING BY, THROUGH, OR UNDER  
33 THAT OWNER.

34 (2) "CERTIFICATE OF TITLE" MEANS A CURRENT CERTIFICATE OF  
35 TITLE ISSUED UNDER PART 1 OF THIS ARTICLE 36.

36 (3) "CONVEYANCE INSTRUMENT" MEANS ANY DOCUMENT,  
37 INSTRUMENT, PAPER, OR ORDER THAT:



- 1 (a) CONVEYS THE FEE TITLE TO REGISTERED LAND; OR  
2 (b) AFFECTS THE TITLE TO REGISTERED LAND AND THE VALIDITY  
3 OF WHICH IS DEPENDENT UPON CONSENT BY AN OWNER OF THE  
4 REGISTERED LAND OR SOME PERSON CLAIMING BY, THROUGH, OR UNDER  
5 THAT OWNER.

6 (4) "REGISTERED LAND" MEANS REAL PROPERTY AND AN INTEREST  
7 IN REAL PROPERTY, THE TITLE TO WHICH HAS BEEN REGISTERED UNDER  
8 PART 1 OF THIS ARTICLE 36.

9 (5) "REGISTRAR" MEANS A CLERK AND RECORDER OF A COUNTY  
10 WHO IS A REGISTRAR OF TITLE IN HIS OR HER RESPECTIVE COUNTY IN  
11 ACCORDANCE WITH SECTION 38-36-109.

12 **38-36-203. Registration - adverse instruments.** ON AND AFTER  
13 THE EFFECTIVE DATE OF THIS PART 2 AND BEFORE JANUARY 1, 2020, THE  
14 REGISTRAR SHALL ONLY ACCEPT AN ADVERSE INSTRUMENT FOR  
15 REGISTRATION ON REGISTERED LAND UNDER PART 1 OF THIS ARTICLE 36.

16 **38-36-204. Registration - conveyance instruments - recording.**

17 (1) ON AND AFTER THE EFFECTIVE DATE OF THIS PART 2 AND BEFORE  
18 JANUARY 1, 2020, THE REGISTRAR SHALL REFUSE TO ACCEPT A  
19 CONVEYANCE INSTRUMENT FOR REGISTRATION UNDER PART 1 OF THIS  
20 ARTICLE 36. INSTEAD OF ACCEPTING THE CONVEYANCE INSTRUMENT FOR  
21 REGISTRATION, THE REGISTRAR SHALL RECORD IN THE OFFICE OF THE  
22 COUNTY CLERK AND RECORDER UNDER ARTICLE 35 OF THIS TITLE 38:

23 (a) EACH CERTIFICATE OF TITLE, WITH ALL NOTATIONS,  
24 CERTIFICATIONS, MEMORIALS, AND ENDORSEMENTS THEREON, TO ALL  
25 LANDS AFFECTED BY THE CONVEYANCE INSTRUMENT; AND

26 (b) THE CONVEYANCE INSTRUMENT, IF THE RELATED RECORDING  
27 FEES HAVE BEEN PAID.

28 (2) IN THE ABSENCE OF EXTENUATING CIRCUMSTANCES, THE  
29 REGISTRAR SHALL RECORD THE CERTIFICATE OF TITLE AND CONVEYANCE  
30 INSTRUMENT AS SET FORTH IN SUBSECTION (1) OF THIS SECTION WITHIN  
31 THREE BUSINESS DAYS OF RECEIVING THE CONVEYANCE INSTRUMENT.  
32 BEFORE RECORDING THE CERTIFICATE OF TITLE, THE REGISTRAR SHALL  
33 MEMORIALIZE ON THE CERTIFICATE ANY INSTRUMENTS, DOCUMENTS,  
34 PAPERS, OR ORDERS THAT HAVE BEEN FILED WITH THE REGISTRAR AND  
35 THAT HAVE NOT YET BEEN MEMORIALIZED.

36 **38-36-205. Certificate of title - recording - notice.** (1) ON OR  
37 BEFORE JANUARY 1, 2020, THE REGISTRAR SHALL REMOVE ALL THE  
38 REMAINING REGISTERED LAND FROM REGISTRATION BY RECORDING IN THE  
39 OFFICE OF THE COUNTY CLERK AND RECORDER UNDER ARTICLE 35 OF THIS  
40 TITLE 38 A CERTIFICATE OF TITLE, WITH ALL NOTATIONS, CERTIFICATIONS,  
41 MEMORIALS, AND ENDORSEMENTS THEREON, FOR EACH PARCEL OF  
42 REGISTERED LAND WITHIN THE COUNTY.

43 (2) (a) AT LEAST NINETY DAYS PRIOR TO RECORDING A

1 CERTIFICATE OF TITLE UNDER THIS SECTION, A REGISTRAR SHALL MAIL A  
2 NOTICE TO EACH OWNER AT THE RESIDENCE OF THE OWNER IDENTIFIED ON  
3 THE CERTIFICATE OF TITLE OR TO THE ADDRESS FOR THE OWNER IN THE  
4 RECORDS MAINTAINED BY THE COUNTY ASSESSOR. IF THERE IS NO KNOWN  
5 ADDRESS FOR THE OWNER OR IF THE NOTICE IS RETURNED AS  
6 UNDELIVERABLE, THE REGISTRAR SHALL PLACE A LEGAL NOTICE THAT  
7 MEETS THE REQUIREMENTS SET FORTH IN SECTION 24-70-103 IN A  
8 NEWSPAPER IN THE COUNTY WHERE THE PROPERTY IS LOCATED.

9 (b) THE REGISTRAR SHALL INCLUDE THE FOLLOWING INFORMATION  
10 IN THE NOTICE REQUIRED UNDER SUBSECTION (2)(a) OF THIS SECTION:

11 (I) A DESCRIPTION OF THE REGISTERED LAND;

12 (II) THE NAME OF EACH OWNER OF THE REGISTERED LAND THAT IS  
13 LISTED ON THE CERTIFICATE OF TITLE;

14 (III) THE CERTIFICATE OF TITLE NUMBER;

15 (IV) A STATEMENT THAT THE TORRENS TITLE REGISTRATION  
16 SYSTEM IS BEING REPEALED AND THAT, ON OR BEFORE JANUARY 1, 2020,  
17 THE REGISTERED LAND WILL BE REMOVED FROM THE TORRENS TITLE  
18 REGISTRATION SYSTEM AND RECORDED WITH THE CLERK AND RECORDER,  
19 BUT PRIOR TO THE REMOVAL, THE OWNER MAY REMOVE THE REGISTERED  
20 LAND UNDER SECTION 38-36-136; AND

21 (V) THE ADDRESS AND TELEPHONE NUMBER FOR THE REGISTRAR'S  
22 OFFICE.

23 (3) BEFORE RECORDING A CERTIFICATE OF TITLE UNDER THIS  
24 SECTION, THE REGISTRAR SHALL MEMORIALIZE ON THE CERTIFICATE ANY  
25 INSTRUMENTS, DOCUMENTS, PAPERS, OR ORDERS THAT HAVE BEEN FILED  
26 WITH THE REGISTRAR AND THAT HAVE NOT YET BEEN MEMORIALIZED.

27 **38-36-206. Recording fees - waived.** A REGISTRAR SHALL NOT  
28 CHARGE ANY FEES FOR RECORDING A CERTIFICATE OF TITLE UNDER  
29 SECTION 38-36-204 OR 38-36-205.

30 **38-36-207. New chain of record.** (1) THE RECORDING OF A  
31 CERTIFICATE OF TITLE UNDER SECTION 38-36-204 OR 38-36-205 REMOVES  
32 THE LAND DESCRIBED IN THE CERTIFICATE FROM THIS ARTICLE 36 WITH  
33 THE SAME EFFECT AS WITHDRAWAL PURSUANT TO SECTION 38-36-136.  
34 AFTER THE RECORDING, THE RECORDED CERTIFICATE OF TITLE  
35 CONSTITUTES A NEW CHAIN OF RECORD TITLE IN THE REGISTERED OWNER  
36 OF ANY ESTATE OR INTEREST AS SHOWN ON THE CERTIFICATE, SUBJECT  
37 ONLY TO ESTATES, MORTGAGES, LIENS, CHARGES, AND INTERESTS AS MAY  
38 BE NOTED ON THE CERTIFICATE, AND FREE FROM ALL OTHERS EXCEPT THE  
39 FOLLOWING:

40 (a) ANY EXISTING LEASE FOR A PERIOD NOT EXCEEDING THREE  
41 YEARS, WHEN THERE IS ACTUAL OCCUPATION OF THE PREMISES UNDER THE  
42 LEASE;

43 (b) ALL PUBLIC HIGHWAYS EMBRACED IN THE DESCRIPTION OF THE



1 LAND INCLUDED IN THE CERTIFICATES ARE DEEMED TO BE EXCLUDED FROM  
2 THE CERTIFICATE, AND ANY SUBSISTING RIGHT-OF-WAY OR OTHER  
3 EASEMENT FOR DITCHES OR WATER RIGHTS UPON, OVER, OR IN RESPECT TO  
4 THE LAND;

5 (c) ANY TAX OR SPECIAL ASSESSMENT FOR WHICH A SALE OF THE  
6 LAND HAS NOT BEEN HAD AT THE DATE OF THE CERTIFICATE OF TITLE; AND

7 (d) LIENS, CLAIMS, OR RIGHTS, IF ANY, ARISING OR EXISTING  
8 UNDER THE CONSTITUTION OR LAWS OF THE UNITED STATES, AND WHICH  
9 THE STATUTES OF THIS STATE CANNOT OR DO NOT REQUIRE TO APPEAR OF  
10 RECORD IN THE OFFICE OF THE COUNTY CLERK AND RECORDER.

11 (2) AFTER A REGISTRAR RECORDS A CERTIFICATE OF TITLE UNDER  
12 SECTION 38-36-204 OR 38-36-205, TITLE TO LANDS IS CONVEYED OR  
13 ENCUMBERED IN THE SAME MANNER AS TITLE TO UNREGISTERED LANDS.  
14 ALL INSTRUMENTS SHOWN AS MEMORIALS ON THE CERTIFICATES OF TITLE  
15 SO RECORDED HAVE THE SAME FORCE AND EFFECT AS IF THEY WERE FILED  
16 WITH THE CLERK AND RECORDER AT THE TIME THEY WERE FILED OR WERE  
17 OTHERWISE MEMORIALIZED ON THE CERTIFICATES. NO INSTRUMENT THAT  
18 WAS FILED OR RECORDED IN ANY OTHER PUBLIC OFFICE BEFORE THE  
19 RECORDING AS PROVIDED IN THIS PART 2, BUT THAT WAS NOT DULY  
20 REGISTERED, IS EFFECTIVE OR CONSTITUTES PUBLIC NOTICE AS TO THOSE  
21 LANDS AS A RESULT OF THE RECORDING; EXCEPT THAT THE INSTRUMENT  
22 MAY BE RECORDED THEREAFTER.

23 **38-36-208. Effect of recording.** (1) RECORDING OF A  
24 CERTIFICATE OF TITLE UNDER SECTION 38-36-204 OR 38-36-205 HAS NO  
25 EFFECT ON ANY PROCEEDINGS UNDER THE REGISTRY SYSTEM WHERE THE  
26 QUESTION OF TITLE TO THE REAL PROPERTY HAS BEEN DETERMINED. ALL  
27 PROCEEDINGS CONDUCTED IN CONNECTION WITH THE REGISTERING OF  
28 TITLE THAT RELATE TO THE SETTLEMENT OR DETERMINATION OF THE TITLE  
29 BEFORE THE RECORDING AND ALL PROVISIONS OF PART 1 OF THIS ARTICLE  
30 36 THAT RELATE TO THE STATUS OF THE TITLE, INCLUDING SECTION  
31 38-36-137, HAVE CONTINUING FORCE AND EFFECT WITH RESPECT TO THE  
32 PERIOD OF TIME THAT TITLE REMAINED UNDER THE REGISTRY SYSTEM.

33 (2) ANY PROVISION OF PART 1 OF THIS ARTICLE 36 THAT GIVES RISE  
34 TO A RIGHT OF ACTION FOR DAMAGES AGAINST THE COUNTY TREASURER  
35 HAS CONTINUING FORCE AND EFFECT WITH RESPECT TO THE PERIOD OF  
36 TIME THAT TITLE REMAINED UNDER THE REGISTRY SYSTEM.

37 **38-36-209. Rights.** (1) NOTHING CONTAINED IN THIS ACT  
38 TERMINATES, DIMINISHES, OR IMPAIRS ANY EXISTING RIGHT IN OR  
39 PERTAINING TO REGISTERED LAND, AND THAT RIGHT MAY BE ASSERTED  
40 AND ENFORCED IN THE SAME MANNER, TO THE SAME EXTENT, AND  
41 SUBJECT TO THE SAME LIMITATIONS AS PROVIDED IN PART 1 OF THIS  
42 ARTICLE 36. THE RECORDING OF A CERTIFICATE OF TITLE UNDER SECTION  
43 38-36-204 OR 38-36-205 DOES NOT CHANGE THE DATE FROM WHICH A

1 RIGHT TO BRING AN ACTION OR PROCEEDING FIRST ACCRUES UNDER  
2 SECTION 38-36-190 FOR A PRIOR DEPRIVATION, LOSS, OR DAMAGE.

3 (2) IF THE OWNER OF REGISTERED LAND IS A VENDOR WHO HOLDS  
4 AFTER-ACQUIRED TITLE IN TRUST FOR A VENDEE AS PROVIDED IN SECTION  
5 38-30-104, THE RECORDING OF A CERTIFICATE OF TITLE UNDER SECTION  
6 38-36-204 OR 38-36-205 DOES NOT AFFECT THE RIGHTS OF THE VENDEE OR  
7 THE DUTIES OF THE VENDOR UNDER SECTION 38-30-104.

8 **38-36-210. Voluntary withdrawals.** AT ANY TIME PRIOR TO  
9 REGISTERED LAND BEING RECORDED UNDER SECTION 38-36-204 OR  
10 38-36-205, AN OWNER MAY WITHDRAW THE REGISTERED LAND FROM  
11 REGISTRATION UNDER THE PROCEDURES SET FORTH IN SECTION 38-36-136.

12 **38-36-211. Maintenance of records.** AFTER RECORDING A  
13 CERTIFICATE OF TITLE UNDER SECTION 38-36-205 OR 38-36-206, A  
14 REGISTRAR SHALL CONTINUE TO PRESERVE AND MAINTAIN ALL RECORDS  
15 THAT HAVE BEEN RECEIVED UNDER THIS ARTICLE 36."

16 Renumber succeeding section accordingly.

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