

CHAPTER 346

PROPERTY

HOUSE BILL 16-1339

BY REPRESENTATIVE(S) Buck and Ginal, Danielson, Mitsch Bush, Lebsock, Neville P., Priola, Saine, Vigil;
also SENATOR(S) Baumgardner, Hodge, Kefalas, Marble, Scott, Sonnenberg, Woods.

AN ACT

CONCERNING AGRICULTURAL PROPERTY FORECLOSURES.

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

SECTION 1. In Colorado Revised Statutes, 38-38-108, **amend** (2) (a) (I) and (2) (b); and **add** (2) (a) (I.5) and (4) as follows:

38-38-108. Date of sale. (2) (a) (I) If it is not evident from the legal description contained in the deed of trust or other lien being foreclosed whether the property described therein is agricultural property, the officer shall make that determination no less than ten calendar days nor more than twenty calendar days after the recording of the notice of election and demand; except that the officer may make the determination at any earlier time upon presentation of acceptable evidence that the property is not agricultural property. The officer shall accept the following as evidence that the property is not agricultural property:

(A) A certified copy of the subdivision plat containing the property or any portion thereof recorded in the office of the clerk and recorder of the county where the property or any portion thereof is located; OR

(B) A written statement by the clerk of the city, town, or city and county, dated no more than six months ~~prior to~~ BEFORE the date of filing of the notice of election and demand or lis pendens with the officer, that all or a portion of the property was located within the incorporated limits of the city, town, or city and county as of the date of recording of the deed of trust or other lien or as of the date of the statement.
~~or~~

(C) ~~A written statement by the assessor of the county where the property is~~

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

~~located, dated no more than six months prior to the date of filing of the notice of election and demand or lis pendens with the officer, that any portion of the property was valued and assessed as other than agricultural property after the date of the recording of the deed of trust or as of the date of the statement.~~

(1.5) THE OFFICER SHALL ACCEPT, AS EVIDENCE THAT THE PROPERTY IS AGRICULTURAL PROPERTY, A WRITTEN STATEMENT BY THE ASSESSOR OF THE COUNTY WHERE THE PROPERTY IS LOCATED, DATED NO MORE THAN SIX MONTHS BEFORE THE DATE OF FILING OF THE NOTICE OF ELECTION AND DEMAND OR LIS PENDENS WITH THE OFFICER, THAT ALL OF THE PROPERTY WAS VALUED AND ASSESSED AS AGRICULTURAL PROPERTY AFTER THE DATE OF THE RECORDING OF THE DEED OF TRUST OR AS OF THE DATE OF THE STATEMENT.

~~(b) The statements described in sub-subparagraphs SUB-SUBPARAGRAPH (B) and (C) of subparagraph (I) AND SUBPARAGRAPH (1.5) of paragraph (a) of this subsection (2) may be obtained and furnished at the expense of the person seeking the determination of whether the property is agricultural or nonagricultural property, which expense may be included as a portion of the fees and costs of the foreclosure.~~

(4) NOTWITHSTANDING THE DESIGNATION OF PROPERTY VALUED AND ASSESSED AS OTHER THAN AGRICULTURAL PROPERTY ACCORDING TO THE DEFINITION OF "AGRICULTURAL PROPERTY" IN SECTION 38-38-100.3 (1) (c), AN ASSESSOR'S NONINTEGRAL CLASSIFICATION OF TWO ACRES OR LESS OF LAND ON WHICH A RESIDENTIAL IMPROVEMENT IS LOCATED, AS DESCRIBED IN SECTION 39-1-102 (1.6) (a) (I) (A), C.R.S., IS NOT DETERMINATIVE OF WHETHER THE PROPERTY IS AGRICULTURAL FOR PURPOSES OF PARAGRAPHS (c) AND (d) OF SUBSECTION (1) AND SUBPARAGRAPH (1.5) OF PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION.

SECTION 2. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2016 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 10, 2016