

HOUSE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

March 21, 2016  
Date

Committee on Agriculture, Livestock, & Natural Resources.

After consideration on the merits, the Committee recommends the following:

HB16-1339 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and  
2 substitute:

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

5 **38-38-108. Date of sale.** (2) (a) (I) If it is not evident from the  
6 legal description contained in the deed of trust or other lien being  
7 foreclosed whether the property described therein is agricultural property,  
8 the officer shall make that determination no less than ten calendar days  
9 nor more than twenty calendar days after the recording of the notice of  
10 election and demand; except that the officer may make the determination  
11 at any earlier time upon presentation of acceptable evidence that the  
12 property is not agricultural property. The officer shall accept the  
13 following as evidence that the property is not agricultural property:

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

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

1 of trust or other lien or as of the date of the statement. or

2 (C) ~~A written statement by the assessor of the county where the~~  
3 ~~property is located, dated no more than six months prior to the date of~~  
4 ~~filing of the notice of election and demand or lis pendens with the officer,~~  
5 ~~that any portion of the property was valued and assessed as other than~~  
6 ~~agricultural property after the date of the recording of the deed of trust or~~  
7 ~~as of the date of the statement.~~

8 (I.5) THE OFFICER SHALL ACCEPT, AS EVIDENCE THAT THE  
9 PROPERTY IS AGRICULTURAL PROPERTY, A WRITTEN STATEMENT BY THE  
10 ASSESSOR OF THE COUNTY WHERE THE PROPERTY IS LOCATED, DATED NO  
11 MORE THAN SIX MONTHS BEFORE THE DATE OF FILING OF THE NOTICE OF  
12 ELECTION AND DEMAND OR LIS PENDENS WITH THE OFFICER, THAT ALL OF  
13 THE PROPERTY WAS VALUED AND ASSESSED AS AGRICULTURAL PROPERTY  
14 AFTER THE DATE OF THE RECORDING OF THE DEED OF TRUST OR AS OF THE  
15 DATE OF THE STATEMENT.

16 (b) The statements described in ~~sub-subparagraphs~~  
17 ~~SUB-SUBPARAGRAPH (B) and (C)~~ of subparagraph (I) AND SUBPARAGRAPH  
18 (I.5) of paragraph (a) of this subsection (2) may be obtained and furnished  
19 at the expense of the person seeking the determination of whether the  
20 property is agricultural or nonagricultural property, which expense may  
21 be included as a portion of the fees and costs of the foreclosure.

22 (4) NOTWITHSTANDING THE DESIGNATION OF PROPERTY VALUED  
23 AND ASSESSED AS OTHER THAN AGRICULTURAL PROPERTY ACCORDING TO  
24 THE DEFINITION OF "AGRICULTURAL PROPERTY" IN SECTION 38-38-100.3  
25 (1) (c), AN ASSESSOR'S NONINTEGRAL CLASSIFICATION OF TWO ACRES OR  
26 LESS OF LAND ON WHICH A RESIDENTIAL IMPROVEMENT IS LOCATED, AS  
27 DESCRIBED IN SECTION 39-1-102 (1.6) (a) (I) (A), C.R.S., IS NOT  
28 DETERMINATIVE OF WHETHER THE PROPERTY IS AGRICULTURAL FOR  
29 PURPOSES OF PARAGRAPHS (c) AND (d) OF SUBSECTION (1) AND  
30 SUBPARAGRAPH (I.5) OF PARAGRAPH (a) OF SUBSECTION (2) OF THIS  
31 SECTION.

32 **SECTION 2. Act subject to petition - effective date.** This act  
33 takes effect at 12:01 a.m. on the day following the expiration of the  
34 ninety-day period after final adjournment of the general assembly (August  
35 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a  
36 referendum petition is filed pursuant to section 1 (3) of article V of the  
37 state constitution against this act or an item, section, or part of this act  
38 within such period, then the act, item, section, or part will not take effect  
39 unless approved by the people at the general election to be held in  
40 November 2016 and, in such case, will take effect on the date of the  
41 official declaration of the vote thereon by the governor."

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