

CHAPTER 81

PROPERTY

HOUSE BILL 98-1086

BY REPRESENTATIVES May, Anderson, Kaufman, Reeser, Sinclair, and Swenson;
also SENATOR B. Alexander.

AN ACT

CONCERNING THE FORMS OF EVIDENCE THAT MAY BE PRESENTED TO PROVE THAT A PARCEL OF LAND IS NOT "AGRICULTURAL REAL ESTATE" FOR FORECLOSURE REDEMPTION PURPOSES.

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

SECTION 1. 38-38-302 (4), Colorado Revised Statutes, is amended to read:

38-38-302. Redemption within specified period - procedure. (4) (a) The term "agricultural real estate" means, for the purpose of this section, any parcel of real estate, none of which, on the date of recording of the mortgage or deed of trust or at the time of the foreclosure sale under such mortgage or deed of trust, is either platted as a subdivision, ~~or is both~~ located within an incorporated town, city, or city and county, ~~and~~ OR is not valued and assessed as agricultural land pursuant to sections 39-1-102 (1.6) (a) and 39-1-103 (5), C.R.S., by the assessor of the county in which the land is located.

(b) (I) If it is not evident from the legal description contained in the mortgage or deed of trust that the real estate described therein is or is not agricultural real estate, the public trustee or sheriff shall accept as evidence that the parcel is not agricultural real estate either:

(A) A certified copy of the subdivision plat containing all or a part of the parcel of real estate; or

(B) ~~Both~~ A certificate of the county clerk and recorder of the city, town, or city and county certifying that all or a part of the parcel is located within the incorporated limits of the city, town, or city and county on the date of recording of the mortgage or deed of trust or at the time of the foreclosure sale; ~~and~~ OR

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

(C) A certificate from the assessor of the county in which the property is located certifying that all or a part of the parcel is not valued and assessed as agricultural land.

(II) A TITLE INSURANCE COMPANY ISSUING A POLICY MAY RELY UPON ANY OF THE FORMS OF EVIDENCE SET FORTH UNDER THIS PARAGRAPH (b).

(c) Such plat or certificates shall be obtained and furnished and the certificates recorded, all of which shall be paid for by the person seeking the determination that the property is not agricultural real estate.

(d) If at the time of recording of the mortgage or deed of trust, or at the time of the foreclosure sale, the property is, in whole or in part, either platted as a subdivision or is both located within the incorporated limits of a town, city, or city and county and is not valued and assessed as agricultural land, it shall be deemed for all purposes under this section, and against all persons, that such parcel is not agricultural real estate.

SECTION 2. Effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to foreclosure sales on or after the applicable effective date of this act.

Approved: April 10, 1998