

**Second Regular Session
Seventieth General Assembly
STATE OF COLORADO**

PREMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 16-0975.01 Yelana Love x2295

HOUSE BILL 16-1339

HOUSE SPONSORSHIP

Buck and Ginal, Danielson, Mitsch Bush

SENATE SPONSORSHIP

Baumgardner,

House Committees

Agriculture, Livestock, & Natural Resources

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING AGRICULTURAL PROPERTY FORECLOSURES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Current law establishes the initial date of sale of foreclosed property based on who is selling the property and whether the property is agricultural or nonagricultural. Property is nonagricultural unless all of the property is considered agricultural. The bill extends the provisions relating to agricultural property to property in which any part is agricultural.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

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

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

4 **38-38-108. Date of sale.** (2) (a) (I) If it is not evident from the
5 legal description contained in the deed of trust or other lien being
6 foreclosed whether the property described therein is agricultural property,
7 the officer shall make that determination no less than ten calendar days
8 nor more than twenty calendar days after the recording of the notice of
9 election and demand; except that the officer may make the determination
10 at any earlier time upon presentation of acceptable evidence that the
11 property is not agricultural property. The officer shall accept the
12 following as evidence that the property is not agricultural property:

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

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

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

1 ~~as of the date of the statement.~~

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

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

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

26 **SECTION 2. Act subject to petition - effective date.** This act
27 takes effect at 12:01 a.m. on the day following the expiration of the

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