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SENATE BILL 17-140

BY SENATOR(S) Sonnenberg, Baumgardner, Cooke, Crowder, Gardner, Martinez Humenik, Priola;  
also REPRESENTATIVE(S) Arndt and Becker J., Gray, McKean, Rosenthal.

CONCERNING THE TORRENS TITLE REGISTRATION SYSTEM.

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

**SECTION 1.** In Colorado Revised Statutes, **amend** 38-36-101 as follows:

**38-36-101. Application to register title - by whom made.**

(1) PRIOR TO JANUARY 1, 2018, the owner of any estate or interest in land, whether legal or equitable, except unpatented land, may apply as provided in this ~~article~~ ARTICLE 36 to have the title of said land registered. The application may be made by the applicant personally, or by an agent thereunto lawfully authorized in writing, which authority shall be executed and acknowledged in the same manner and form as is now required as to a deed, and shall be recorded in the office of the county clerk and recorder in the county in which the land, or the major portion thereof, is situated before the making of the application by such agent. A corporation may apply by its authorized agent, and an infant or any other person under

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

disability by his legal guardian. Joint tenants and tenants in common shall join in the application. The person in whose behalf the application is made shall be named as applicant.

(2) ON OR AFTER JANUARY 1, 2018, NO MORE APPLICATIONS TO REGISTER TITLES UNDER THIS ARTICLE 36 MAY BE MADE.

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

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

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

PART 2  
TORRENS CONCLUSION

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

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

(1) "ADVERSE INSTRUMENT" MEANS ANY DOCUMENT, INSTRUMENT,

PAPER, OR ORDER THAT ADVERSELY AFFECTS, BUT DOES NOT CONVEY, THE FEE TITLE TO REGISTERED LAND, AND THE VALIDITY OF WHICH IS NOT DEPENDENT UPON CONSENT BY AN OWNER OF THE REGISTERED LAND OR SOME PERSON CLAIMING BY, THROUGH, OR UNDER THAT OWNER.

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

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

(a) CONVEYS THE FEE TITLE TO REGISTERED LAND; OR

(b) AFFECTS THE TITLE TO REGISTERED LAND AND THE VALIDITY OF WHICH IS DEPENDENT UPON CONSENT BY AN OWNER OF THE REGISTERED LAND OR SOME PERSON CLAIMING BY, THROUGH, OR UNDER THAT OWNER.

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

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

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

**38-36-204. Registration - conveyance instruments - recording.**  
(1) ON AND AFTER THE EFFECTIVE DATE OF THIS PART 2 AND BEFORE JANUARY 1, 2020, THE REGISTRAR SHALL REFUSE TO ACCEPT A CONVEYANCE INSTRUMENT FOR REGISTRATION UNDER PART 1 OF THIS ARTICLE 36. INSTEAD OF ACCEPTING THE CONVEYANCE INSTRUMENT FOR REGISTRATION, THE REGISTRAR SHALL RECORD IN THE OFFICE OF THE COUNTY CLERK AND RECORDER UNDER ARTICLE 35 OF THIS TITLE 38:

(a) EACH CERTIFICATE OF TITLE, WITH ALL NOTATIONS, CERTIFICATIONS, MEMORIALS, AND ENDORSEMENTS THEREON, TO ALL

LANDS AFFECTED BY THE CONVEYANCE INSTRUMENT; AND

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

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

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

(2)(a) AT LEAST NINETY DAYS PRIOR TO RECORDING A CERTIFICATE OF TITLE UNDER THIS SECTION, A REGISTRAR SHALL MAIL A NOTICE TO EACH OWNER AT THE RESIDENCE OF THE OWNER IDENTIFIED ON THE CERTIFICATE OF TITLE OR TO THE ADDRESS FOR THE OWNER IN THE RECORDS MAINTAINED BY THE COUNTY ASSESSOR. IF THERE IS NO KNOWN ADDRESS FOR THE OWNER OR IF THE NOTICE IS RETURNED AS UNDELIVERABLE, THE REGISTRAR SHALL PLACE A LEGAL NOTICE THAT MEETS THE REQUIREMENTS SET FORTH IN SECTION 24-70-103 IN A NEWSPAPER IN THE COUNTY WHERE THE PROPERTY IS LOCATED.

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

(I) A DESCRIPTION OF THE REGISTERED LAND;

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

(III) THE CERTIFICATE OF TITLE NUMBER;

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

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

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

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

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

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

(b) ALL PUBLIC HIGHWAYS EMBRACED IN THE DESCRIPTION OF THE LAND INCLUDED IN THE CERTIFICATES ARE DEEMED TO BE EXCLUDED FROM THE CERTIFICATE, AND ANY SUBSISTING RIGHT-OF-WAY OR OTHER EASEMENT FOR DITCHES OR WATER RIGHTS UPON, OVER, OR IN RESPECT TO THE LAND;

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

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

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

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

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

**38-36-209. Rights.** (1) NOTHING CONTAINED IN THIS ACT TERMINATES, DIMINISHES, OR IMPAIRS ANY EXISTING RIGHT IN OR PERTAINING TO REGISTERED LAND, AND THAT RIGHT MAY BE ASSERTED AND

ENFORCED IN THE SAME MANNER, TO THE SAME EXTENT, AND SUBJECT TO THE SAME LIMITATIONS AS PROVIDED IN PART 1 OF THIS ARTICLE 36. THE RECORDING OF A CERTIFICATE OF TITLE UNDER SECTION 38-36-204 OR 38-36-205 DOES NOT CHANGE THE DATE FROM WHICH A RIGHT TO BRING AN ACTION OR PROCEEDING FIRST ACCRUES UNDER SECTION 38-36-190 FOR A PRIOR DEPRIVATION, LOSS, OR DAMAGE.

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

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

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

**SECTION 4. 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 9, 2017, if adjournment sine die is on May 10, 2017); 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 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

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Kevin J. Grantham  
PRESIDENT OF  
THE SENATE

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Crisanta Duran  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Effie Ameen  
SECRETARY OF  
THE SENATE

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Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

APPROVED \_\_\_\_\_

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John W. Hickenlooper  
GOVERNOR OF THE STATE OF COLORADO