

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 17-0746.01 Ed DeCecco x4216

SENATE BILL 17-140

SENATE SPONSORSHIP

Sonnenberg,

HOUSE SPONSORSHIP

Arndt and Becker J.,

Senate Committees
Local Government

House Committees
Local Government

A BILL FOR AN ACT

101 **CONCERNING THE TORRENS TITLE REGISTRATION SYSTEM.**

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://leg.colorado.gov>.)

Beginning January 1, 2018, the bill closes the Torrens title registration system to new applications to register land title in this state.

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

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

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.

HOUSE
3rd Reading Unamended
May 8, 2017

HOUSE
Amended 2nd Reading
May 5, 2017

SENATE
3rd Reading Unamended
February 21, 2017

SENATE
2nd Reading Unamended
February 17, 2017

1 follows:

2 **38-36-101. Application to register title - by whom made.**

3 (1) PRIOR TO JANUARY 1, 2018, the owner of any estate or interest in
4 land, whether legal or equitable, except unpatented land, may apply as
5 provided in this ~~article~~ ARTICLE 36 to have the title of said land registered.
6 The application may be made by the applicant personally, or by an agent
7 thereunto lawfully authorized in writing, which authority shall be
8 executed and acknowledged in the same manner and form as is now
9 required as to a deed, and shall be recorded in the office of the county
10 clerk and recorder in the county in which the land, or the major portion
11 thereof, is situated before the making of the application by such agent. A
12 corporation may apply by its authorized agent, and an infant or any other
13 person under disability by his legal guardian. Joint tenants and tenants in
14 common shall join in the application. The person in whose behalf the
15 application is made shall be named as applicant.

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

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

20 **38-36-136. Registered land to remain under this article unless**
21 **removed from registration.** (1) Unless removed from registration in the
22 manner stated in this section, SECTION 38-36-204, OR SECTION 38-36-205,
23 the obtaining of a decree of registration and receiving of a certificate of
24 title shall be deemed an agreement running with the land and binding
25 upon the applicant and the successors in title that the land is and remains
26 registered land and subject to the provisions of this ~~article~~ ARTICLE 36 and
27 of all amendments thereto. All dealings with the land or any estate or

1 interest therein after the same has been brought under this ~~article~~ ARTICLE
2 36, and all liens, encumbrances, and charges upon the same shall be made
3 only subject to the terms of this ~~article~~ ARTICLE 36. The owner, or his
4 agent or attorney, of any real property registered under the terms of this
5 ~~article~~ ARTICLE 36 may, at any time, withdraw said real property
6 registration from the operation of this ~~article~~ ARTICLE 36 by surrendering
7 to the registrar his duplicate certificate of ownership, duly endorsed with
8 a signed and acknowledged request for such withdrawal.

9 **SECTION 3.** In Colorado Revised Statutes, **add** part 2 to article
10 36 of title 38 as follows:

11 **PART 2**

12 **TORRENS CONCLUSION**

13 **38-36-201. Short title.** THE SHORT TITLE OF THIS PART 2 IS "THE
14 CONCLUSION OF THE TORRENS TITLE REGISTRATION ACT".

15 **38-36-202. Definitions.** AS USED IN THIS PART 2, UNLESS THE
16 CONTEXT OTHERWISE REQUIRES:

17 (1) "ADVERSE INSTRUMENT" MEANS ANY DOCUMENT,
18 INSTRUMENT, PAPER, OR ORDER THAT ADVERSELY AFFECTS, BUT DOES NOT
19 CONVEY, THE FEE TITLE TO REGISTERED LAND, AND THE VALIDITY OF
20 WHICH IS NOT DEPENDENT UPON CONSENT BY AN OWNER OF THE
21 REGISTERED LAND OR SOME PERSON CLAIMING BY, THROUGH, OR UNDER
22 THAT OWNER.

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

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

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

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

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

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

11 **38-36-203. Registration - adverse instruments.** ON AND AFTER
12 THE EFFECTIVE DATE OF THIS PART 2 AND BEFORE JANUARY 1, 2020, THE
13 REGISTRAR SHALL ONLY ACCEPT AN ADVERSE INSTRUMENT FOR
14 REGISTRATION ON REGISTERED LAND UNDER PART 1 OF THIS ARTICLE 36.

15 **38-36-204. Registration - conveyance instruments - recording.**

16 (1) ON AND AFTER THE EFFECTIVE DATE OF THIS PART 2 AND BEFORE
17 JANUARY 1, 2020, THE REGISTRAR SHALL REFUSE TO ACCEPT A
18 CONVEYANCE INSTRUMENT FOR REGISTRATION UNDER PART 1 OF THIS
19 ARTICLE 36. INSTEAD OF ACCEPTING THE CONVEYANCE INSTRUMENT FOR
20 REGISTRATION, THE REGISTRAR SHALL RECORD IN THE OFFICE OF THE
21 COUNTY CLERK AND RECORDER UNDER ARTICLE 35 OF THIS TITLE 38:

22 (a) EACH CERTIFICATE OF TITLE, WITH ALL NOTATIONS,
23 CERTIFICATIONS, MEMORIALS, AND ENDORSEMENTS THEREON, TO ALL
24 LANDS AFFECTED BY THE CONVEYANCE INSTRUMENT; AND

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

27 (2) IN THE ABSENCE OF EXTENUATING CIRCUMSTANCES, THE

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

8 **38-36-205. Certificate of title - recording - notice.** (1) ON OR
9 BEFORE JANUARY 1, 2020, THE REGISTRAR SHALL REMOVE ALL THE
10 REMAINING REGISTERED LAND FROM REGISTRATION BY RECORDING IN THE
11 OFFICE OF THE COUNTY CLERK AND RECORDER UNDER ARTICLE 35 OF THIS
12 TITLE 38 A CERTIFICATE OF TITLE, WITH ALL NOTATIONS, CERTIFICATIONS,
13 MEMORIALS, AND ENDORSEMENTS THEREON, FOR EACH PARCEL OF
14 REGISTERED LAND WITHIN THE COUNTY.

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

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

26 (I) A DESCRIPTION OF THE REGISTERED LAND;

27 (II) THE NAME OF EACH OWNER OF THE REGISTERED LAND THAT IS

1 LISTED ON THE CERTIFICATE OF TITLE;
2 (III) THE CERTIFICATE OF TITLE NUMBER;
3 (IV) A STATEMENT THAT THE TORRENS TITLE REGISTRATION
4 SYSTEM IS BEING REPEALED AND THAT, ON OR BEFORE JANUARY 1, 2020,
5 THE REGISTERED LAND WILL BE REMOVED FROM THE TORRENS TITLE
6 REGISTRATION SYSTEM AND RECORDED WITH THE CLERK AND RECORDER,
7 BUT PRIOR TO THE REMOVAL, THE OWNER MAY REMOVE THE REGISTERED
8 LAND UNDER SECTION 38-36-136; AND

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

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

15 **38-36-206. Recording fees - waived.** A REGISTRAR SHALL NOT
16 CHARGE ANY FEES FOR RECORDING A CERTIFICATE OF TITLE UNDER
17 SECTION 38-36-204 OR 38-36-205.

18 **38-36-207. New chain of record.** (1) THE RECORDING OF A
19 CERTIFICATE OF TITLE UNDER SECTION 38-36-204 OR 38-36-205 REMOVES
20 THE LAND DESCRIBED IN THE CERTIFICATE FROM THIS ARTICLE 36 WITH
21 THE SAME EFFECT AS WITHDRAWAL PURSUANT TO SECTION 38-36-136.
22 AFTER THE RECORDING, THE RECORDED CERTIFICATE OF TITLE
23 CONSTITUTES A NEW CHAIN OF RECORD TITLE IN THE REGISTERED OWNER
24 OF ANY ESTATE OR INTEREST AS SHOWN ON THE CERTIFICATE, SUBJECT
25 ONLY TO ESTATES, MORTGAGES, LIENS, CHARGES, AND INTERESTS AS MAY
26 BE NOTED ON THE CERTIFICATE, AND FREE FROM ALL OTHERS EXCEPT THE
27 FOLLOWING:

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

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

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

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

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

27 **38-36-208. Effect of recording.** (1) RECORDING OF A

1 CERTIFICATE OF TITLE UNDER SECTION 38-36-204 OR 38-36-205 HAS NO
2 EFFECT ON ANY PROCEEDINGS UNDER THE REGISTRY SYSTEM WHERE THE
3 QUESTION OF TITLE TO THE REAL PROPERTY HAS BEEN DETERMINED. ALL
4 PROCEEDINGS CONDUCTED IN CONNECTION WITH THE REGISTERING OF
5 TITLE THAT RELATE TO THE SETTLEMENT OR DETERMINATION OF THE TITLE
6 BEFORE THE RECORDING AND ALL PROVISIONS OF PART 1 OF THIS ARTICLE
7 36 THAT RELATE TO THE STATUS OF THE TITLE, INCLUDING SECTION
8 38-36-137, HAVE CONTINUING FORCE AND EFFECT WITH RESPECT TO THE
9 PERIOD OF TIME THAT TITLE REMAINED UNDER THE REGISTRY SYSTEM.

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

14 **38-36-209. Rights.** (1) NOTHING CONTAINED IN THIS ACT
15 TERMINATES, DIMINISHES, OR IMPAIRS ANY EXISTING RIGHT IN OR
16 PERTAINING TO REGISTERED LAND, AND THAT RIGHT MAY BE ASSERTED
17 AND ENFORCED IN THE SAME MANNER, TO THE SAME EXTENT, AND
18 SUBJECT TO THE SAME LIMITATIONS AS PROVIDED IN PART 1 OF THIS
19 ARTICLE 36. THE RECORDING OF A CERTIFICATE OF TITLE UNDER SECTION
20 38-36-204 OR 38-36-205 DOES NOT CHANGE THE DATE FROM WHICH A
21 RIGHT TO BRING AN ACTION OR PROCEEDING FIRST ACCRUES UNDER
22 SECTION 38-36-190 FOR A PRIOR DEPRIVATION, LOSS, OR DAMAGE.

23 (2) IF THE OWNER OF REGISTERED LAND IS A VENDOR WHO HOLDS
24 AFTER-ACQUIRED TITLE IN TRUST FOR A VENDEE AS PROVIDED IN SECTION
25 38-30-104, THE RECORDING OF A CERTIFICATE OF TITLE UNDER SECTION
26 38-36-204 OR 38-36-205 DOES NOT AFFECT THE RIGHTS OF THE VENDEE OR
27 THE DUTIES OF THE VENDOR UNDER SECTION 38-30-104.

1 **38-36-210. Voluntary withdrawals.** AT ANY TIME PRIOR TO
2 REGISTERED LAND BEING RECORDED UNDER SECTION 38-36-204 OR
3 38-36-205, AN OWNER MAY WITHDRAW THE REGISTERED LAND FROM
4 REGISTRATION UNDER THE PROCEDURES SET FORTH IN SECTION 38-36-136.

5 **38-36-211. Maintenance of records.** AFTER RECORDING A
6 CERTIFICATE OF TITLE UNDER SECTION 38-36-205 OR 38-36-206, A
7 REGISTRAR SHALL CONTINUE TO PRESERVE AND MAINTAIN ALL RECORDS
8 THAT HAVE BEEN RECEIVED UNDER THIS ARTICLE 36.

9 **SECTION 4. Act subject to petition - effective date.** This act
10 takes effect at 12:01 a.m. on the day following the expiration of the
11 ninety-day period after final adjournment of the general assembly (August
12 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
13 referendum petition is filed pursuant to section 1 (3) of article V of the
14 state constitution against this act or an item, section, or part of this act
15 within such period, then the act, item, section, or part will not take effect
16 unless approved by the people at the general election to be held in
17 November 2018 and, in such case, will take effect on the date of the
18 official declaration of the vote thereon by the governor.