

HOUSE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

May 4, 2017  
Date

Committee on Local Government.

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

SB17-140 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend reengrossed bill, page 2, after line 17 insert:

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

4 **38-36-136. Registered land to remain under this article unless**  
5 **removed from registration.** (1) Unless removed from registration in the  
6 manner stated in this section, SECTION 38-36-204, OR SECTION 38-36-205,  
7 the obtaining of a decree of registration and receiving of a certificate of  
8 title shall be deemed an agreement running with the land and binding  
9 upon the applicant and the successors in title that the land is and remains  
10 registered land and subject to ~~the provisions of this article~~ ARTICLE 36 and  
11 of all amendments thereto. All dealings with the land or any estate or  
12 interest therein after the same has been brought under this ~~article~~ ARTICLE  
13 36, and all liens, encumbrances, and charges upon the same shall be made  
14 only subject to the terms of this ~~article~~ ARTICLE 36. The owner, or his  
15 agent or attorney, of any real property registered under the terms of this  
16 ~~article~~ ARTICLE 36 may, at any time, withdraw said real property  
17 registration from the operation of this ~~article~~ ARTICLE 36 by surrendering  
18 to the registrar his duplicate certificate of ownership, duly endorsed with  
19 a signed and acknowledged request for such withdrawal.

20 **SECTION 3.** In Colorado Revised Statutes, **add** part 2 to article  
21 36 of title 38 as follows:

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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

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

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

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

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

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

- 29 (I) A DESCRIPTION OF THE REGISTERED LAND;
- 30 (II) THE NAME OF EACH OWNER OF THE REGISTERED LAND THAT IS  
31 LISTED ON THE CERTIFICATE OF TITLE;
- 32 (III) THE CERTIFICATE OF TITLE NUMBER;
- 33 (IV) A STATEMENT THAT THE TORRENS TITLE REGISTRATION  
34 SYSTEM IS BEING REPEALED AND THAT, ON OR BEFORE JANUARY 1, 2020,  
35 THE REGISTERED LAND WILL BE REMOVED FROM THE TORRENS TITLE  
36 REGISTRATION SYSTEM AND RECORDED WITH THE CLERK AND RECORDER,  
37 BUT PRIOR TO THE REMOVAL, THE OWNER MAY REMOVE THE REGISTERED  
38 LAND UNDER SECTION 38-36-136; AND
- 39 (V) THE ADDRESS AND TELEPHONE NUMBER FOR THE REGISTRAR'S  
40 OFFICE.

41 (3) BEFORE RECORDING A CERTIFICATE OF TITLE UNDER THIS  
42 SECTION, THE REGISTRAR SHALL MEMORIALIZE ON THE CERTIFICATE ANY

1 INSTRUMENTS, DOCUMENTS, PAPERS, OR ORDERS THAT HAVE BEEN FILED  
2 WITH THE REGISTRAR AND THAT HAVE NOT YET BEEN MEMORIALIZED.

3 **38-36-206. Recording fees - waived.** A REGISTRAR SHALL NOT  
4 CHARGE ANY FEES FOR RECORDING A CERTIFICATE OF TITLE UNDER  
5 SECTION 38-36-204 OR 38-36-205.

6 **38-36-207. New chain of record.** (1) THE RECORDING OF A  
7 CERTIFICATE OF TITLE UNDER SECTION 38-36-204 OR 38-36-205 REMOVES  
8 THE LAND DESCRIBED IN THE CERTIFICATE FROM THIS ARTICLE 36 WITH  
9 THE SAME EFFECT AS WITHDRAWAL PURSUANT TO SECTION 38-36-136.  
10 AFTER THE RECORDING, THE RECORDED CERTIFICATE OF TITLE  
11 CONSTITUTES A NEW CHAIN OF RECORD TITLE IN THE REGISTERED OWNER  
12 OF ANY ESTATE OR INTEREST AS SHOWN ON THE CERTIFICATE, SUBJECT  
13 ONLY TO ESTATES, MORTGAGES, LIENS, CHARGES, AND INTERESTS AS MAY  
14 BE NOTED ON THE CERTIFICATE, AND FREE FROM ALL OTHERS EXCEPT THE  
15 FOLLOWING:

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

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

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

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

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

1           **38-36-208. Effect of recording.** (1) RECORDING OF A  
2 CERTIFICATE OF TITLE UNDER SECTION 38-36-204 OR 38-36-205 HAS NO  
3 EFFECT ON ANY PROCEEDINGS UNDER THE REGISTRY SYSTEM WHERE THE  
4 QUESTION OF TITLE TO THE REAL PROPERTY HAS BEEN DETERMINED. ALL  
5 PROCEEDINGS CONDUCTED IN CONNECTION WITH THE REGISTERING OF  
6 TITLE THAT RELATE TO THE SETTLEMENT OR DETERMINATION OF THE TITLE  
7 BEFORE THE RECORDING AND ALL PROVISIONS OF PART 1 OF THIS ARTICLE  
8 36 THAT RELATE TO THE STATUS OF THE TITLE, INCLUDING SECTION  
9 38-36-137, HAVE CONTINUING FORCE AND EFFECT WITH RESPECT TO THE  
10 PERIOD OF TIME THAT TITLE REMAINED UNDER THE REGISTRY SYSTEM.

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

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

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

29           **38-36-210. Voluntary withdrawals.** AT ANY TIME PRIOR TO  
30 REGISTERED LAND BEING RECORDED UNDER SECTION 38-36-204 OR  
31 38-36-205, AN OWNER MAY WITHDRAW THE REGISTERED LAND FROM  
32 REGISTRATION UNDER THE PROCEDURES SET FORTH IN SECTION 38-36-136.

33           **38-36-211. Maintenance of records.** AFTER RECORDING A  
34 CERTIFICATE OF TITLE UNDER SECTION 38-36-205 OR 38-36-206, A  
35 REGISTRAR SHALL CONTINUE TO PRESERVE AND MAINTAIN ALL RECORDS  
36 THAT HAVE BEEN RECEIVED UNDER THIS ARTICLE 36."

37           Renumber succeeding section accordingly.

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