

Second Regular Session  
Sixty-sixth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 08-0713.01 Gregg Fraser

HOUSE BILL 08-1353

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HOUSE SPONSORSHIP

**Madden**, Buescher, Curry, and Roberts

SENATE SPONSORSHIP

**Isgar**, and Penry

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**House Committees**  
Finance

**Senate Committees**

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A BILL FOR AN ACT

101      **CONCERNING THE IMPLEMENTATION OF ADDITIONAL REQUIREMENTS**  
102            **TO VERIFY THE VALIDITY OF A STATE INCOME TAX CREDIT**  
103            **CLAIMED BY A TAXPAYER FOR DONATING A CONSERVATION**  
104            **EASEMENT IN THE STATE.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Requires that an appraiser who conducts an appraisal of a conservation easement submit a copy of the appraisal to the division of real estate (division) rather than the department of agriculture and the department of natural resources. Requires the appraisal to be submitted

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.*

within a specified time with an affidavit containing specified information relating to the appraisal, the appraiser, and the easement being appraised.

Authorizes the board of real estate appraisers (board) to investigate the activities of any appraiser who submits an appraisal, and requires the board to conduct the investigation upon receiving a written complaint from any person. If the board determines that a material violation has occurred, requires the board to notify the department of revenue (DOR). Requires the division to maintain the information in an electronic database. Authorizes the division to share the information with the DOR. Specifies that the division shall deny an open records request to inspect the information until such time as the division files a notice of charges related to the information. Allows the division to require the correction of an appraisal in specified circumstances and to notify the DOR regarding the appraisal.

Provides the board with the authority to take disciplinary action against appraisers who do not meet specified requirements relating to appraisals of conservation easements. Authorizes the board to establish classroom education and experience requirements for an appraiser who prepares an appraisal for a conservation easement for which a tax credit is claimed. Creates a fee to be charged for each appraisal submitted to the division to provide for the costs of administering the additional requirements.

Creates the conservation easement oversight commission (commission). Specifies the membership of the commission and the terms of certain members of the commission. Requires the commission to establish a conflict of interest policy for members of the commission. Requires the commission to review conservation easement transactions at the request of the division and to advise the division and the DOR regarding conservation easement transactions for which a tax credit is claimed.

Requires the division to establish and administer a certification program for organizations that hold conservation easements for which tax credits are claimed. Requires the commission to review each application for certification and provide a recommendation for approval to the division. Specifies criteria for granting certification. Requires applicants to pay a fee to provide for the costs of the certification program. Authorizes the program to contain a provision allowing for the expedited or automatic certification of certain entities.

Requires the division to notify the applicants of the division's decision on certification. Allows the division to implement the certification program for land trusts during the first year of the program and for other entities in the 2nd year of the program. Allows future tax credits for conservation easements to be claimed only if the entity that holds the easement has been certified by the program. Provides that the certification shall be effective for a specified time. Allows the division

to revoke or suspend a certification upon making specified findings. Requires the division to maintain and update an online list of the status of entities that participate in the program.

Creates an exception from an existing requirement that the holder of a conservation easement have adequate resources to monitor its easements if the easement was granted to a local government that did not involve a charitable donation.

Specifies additional authority and responsibilities of the executive director of the DOR with respect to administering the allowance of tax credits for conservation easements. Authorizes the executive director to require such detailed information regarding a claim for a conservation easement credit as the executive director determines is necessary to carry out the DOR's functions relating to the credit. Excepts the executive director from having to comply with an open records request to inspect information related to a credit.

Modifies existing provisions that allow the executive director of the DOR to require a 2nd appraisal for a conservation easement.

Extends the internal revenue code's tax basis limitation on qualified conservation contributions over property held for less than one year to state conservation tax credits.

Defines terms.

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

2 **SECTION 1.** 12-61-702, Colorado Revised Statutes, is amended  
3 BY THE ADDITION OF A NEW SUBSECTION to read:

4 **12-61-702. Definitions.** As used in this part 7, unless the context  
5 otherwise requires:

6 (2.3) "COMMISSION" MEANS THE CONSERVATION EASEMENT  
7 OVERSIGHT COMMISSION CREATED IN SECTION 12-61-721 (1).

8 **SECTION 2.** Part 7 of article 61 of title 12, Colorado Revised  
9 Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW  
10 SECTIONS to read:

11 **12-61-719. Conservation easement appraisals.** (1) ANY  
12 APPRAISER WHO CONDUCTS AN APPRAISAL FOR A CONSERVATION  
13 EASEMENT SHALL SUBMIT A COPY OF THE COMPLETED APPRAISAL TO THE

1 DIVISION WITHIN THIRTY DAYS FOLLOWING THE COMPLETION OF THE  
2 APPRAISAL. FOR PURPOSES OF THIS SECTION, "COMPLETION OF THE  
3 APPRAISAL" SHALL MEAN THAT THE CERTIFICATION PAGE, AS DEFINED IN  
4 THE UNIFORM STANDARDS FOR PROFESSIONAL APPRAISAL PRACTICE,  
5 PROMULGATED BY THE APPRAISAL STANDARDS BOARD, SHALL HAVE BEEN  
6 SIGNED BY THE APPRAISER AND THE APPRAISAL HAS BEEN DELIVERED TO  
7 THE CLIENT OF THE APPRAISER. THE APPRAISAL SHALL BE ACCOMPANIED  
8 BY AN AFFIDAVIT FROM THE APPRAISER THAT INCLUDES, BUT IS NOT  
9 LIMITED TO, THE FOLLOWING:

10 (a) A STATEMENT SPECIFYING THE VALUE OF THE UNENCUMBERED  
11 PROPERTY AND THE TOTAL VALUE OF THE CONSERVATION EASEMENT IN  
12 GROSS ALONG WITH DETAILS OF WHAT METHODS THE APPRAISER USED TO  
13 DETERMINE THESE VALUES;

14 (b) IF THE APPRAISAL SEPARATELY ALLOCATES THE VALUES OF  
15 SAND AND GRAVEL, MINERALS, WATER, OR IMPROVEMENTS, A STATEMENT  
16 OF THE SEPARATE VALUE OF THE SAND AND GRAVEL, MINERALS, WATER,  
17 OR IMPROVEMENTS BEFORE AND AFTER THE CONSERVATION EASEMENT IN  
18 GROSS IS GRANTED;

19 (c) AN ACKNOWLEDGMENT SPECIFYING WHETHER A SUBDIVISION  
20 ANALYSIS WAS USED TO ESTABLISH THE CONSERVATION VALUE IN THE  
21 APPRAISAL;

22 (d) A STATEMENT CLARIFYING WHETHER OR NOT THE LANDOWNER  
23 OR A FAMILY MEMBER AS DEFINED IN SECTION 267 (c) (4) OF THE FEDERAL  
24 "INTERNAL REVENUE CODE OF 1986", AS AMENDED, OWNS OTHER  
25 PROPERTY CONTIGUOUS TO THE PROPERTY ENCUMBERED BY THE  
26 APPRAISED CONSERVATION EASEMENT OR OWNS OTHER PROPERTY,  
27 WHETHER CONTIGUOUS OR NOT, OWNED BY THE LANDOWNER OR RELATED

1 PERSON AS DEFINED IN SECTION 267 (b) OF THE FEDERAL "INTERNAL  
2 REVENUE CODE OF 1986", AS AMENDED;

3 (e) A STATEMENT SPECIFYING HOW THE APPRAISER SATISFIES THE  
4 QUALIFIED APPRAISER AND LICENSING REQUIREMENTS SET FORTH IN  
5 SECTION 39-22-522 (3.3);

6 (f) A STATEMENT VERIFYING THE DATE AND METHOD BY WHICH  
7 THE APPRAISER HAS MET ANY SPECIFIED CLASSROOM EDUCATION  
8 REQUIREMENTS ESTABLISHED BY THE BOARD FOR CONSERVATION  
9 EASEMENT APPRAISALS PURSUANT TO SUBSECTION (7) OF THIS SECTION;  
10 AND

11 (g) A STATEMENT SPECIFYING THE NUMBER OF PREVIOUS  
12 CONSERVATION EASEMENT APPRAISALS CONDUCTED BY THE APPRAISER.

13 (2) AN AFFIDAVIT SUBMITTED IN ACCORDANCE WITH THE  
14 PROVISIONS OF THIS SECTION SHALL BE IN A FORM APPROVED BY THE  
15 BOARD. THE BOARD SHALL HAVE THE AUTHORITY TO PROMULGATE RULES  
16 CONCERNING THE FORM AND CONTENT OF THE AFFIDAVIT. SUCH RULES  
17 SHALL BE PROMULGATED IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24,  
18 C.R.S. A COPY OF THE AFFIDAVIT AND THE COMPLETED APPRAISAL SHALL  
19 BE PROVIDED TO THE LANDOWNER.

20 (3) THE DIVISION SHALL REVIEW THE INFORMATION SUBMITTED IN  
21 ACCORDANCE WITH THIS SECTION TO ENSURE THAT IT IS COMPLETE AND  
22 SHALL RECORD AND MAINTAIN THE INFORMATION IN AN ELECTRONIC  
23 DATABASE. THE DIVISION SHALL HAVE THE AUTHORITY TO SHARE THE  
24 INFORMATION WITH THE DEPARTMENT OF REVENUE. NOTWITHSTANDING  
25 THE PROVISIONS OF PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S., THE  
26 DIVISION'S CUSTODIAN OF RECORDS SHALL DENY THE RIGHT OF INSPECTION  
27 OF ANY APPRAISAL, AFFIDAVIT, OR OTHER RECORD RELATED TO

1 INFORMATION SUBMITTED IN ACCORDANCE WITH THE PROVISION OF THIS  
2 SECTION UNLESS AND UNTIL SUCH TIME AS THE DIVISION FILES A NOTICE  
3 OF CHARGES RELATED TO THE INFORMATION.

4 (4) THE BOARD IN ITS DISCRETION MAY, OR UPON RECEIVING A  
5 WRITTEN COMPLAINT FROM ANY PERSON SHALL, INVESTIGATE THE  
6 ACTIVITIES OF ANY APPRAISER WHO SUBMITS ANY INFORMATION IN  
7 ACCORDANCE WITH THE PROVISIONS OF THIS SECTION. THE  
8 INVESTIGATION SHALL CONSIDER WHETHER THE APPRAISAL SUBMITTED IN  
9 ACCORDANCE WITH THIS SECTION COMPLIES WITH THE UNIFORM  
10 STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE AND ANY OTHER  
11 PROVISION OF LAW. IN CONDUCTING THE INVESTIGATION, THE DIVISION  
12 SHALL HAVE THE AUTHORITY TO CONSULT WITH THE COMMISSION.

13 (5) IF THE BOARD DETERMINES THAT A MATERIAL VIOLATION OF  
14 THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE OR A  
15 SUBSTANTIAL MISSTATEMENT OF VALUE HAS OCCURRED IN ANY APPRAISAL  
16 SUBMITTED IN ACCORDANCE WITH THIS SECTION, THE BOARD SHALL  
17 NOTIFY THE DEPARTMENT OF REVENUE REGARDING THE APPRAISAL AND  
18 PROVIDE THE DEPARTMENT WITH A COPY OF THE APPRAISAL AND A  
19 SUMMARY OF THE DIVISION'S FINDINGS.

20 (6) IF AN APPRAISER FAILS TO FILE AN APPRAISAL, AFFIDAVIT, OR  
21 OTHER INFORMATION AS REQUIRED BY THIS SECTION, THE BOARD SHALL  
22 HAVE THE AUTHORITY TO TAKE DISCIPLINARY ACTION AS PROVIDED IN  
23 SECTION 12-61-710.

24 (7) THE BOARD SHALL HAVE THE AUTHORITY TO ESTABLISH  
25 CLASSROOM EDUCATION AND EXPERIENCE REQUIREMENTS FOR AN  
26 APPRAISER WHO PREPARES AN APPRAISAL FOR A CONSERVATION  
27 EASEMENT PURSUANT TO SECTION 39-22-522, C.R.S. SUCH

1 REQUIREMENTS SHALL BE ESTABLISHED TO ENSURE THAT APPRAISERS  
2 HAVE A SUFFICIENT AMOUNT OF TRAINING AND EXPERTISE TO  
3 ACCURATELY PREPARE APPRAISALS THAT COMPLY WITH THE UNIFORM  
4 STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE AND ANY OTHER  
5 PROVISION OF LAW RELATED TO THE APPRAISAL OF CONSERVATION  
6 EASEMENTS. A CREDIT FOR A CONSERVATION EASEMENT SHALL NOT BE  
7 ALLOWED UNLESS THE APPRAISER WHO PREPARED THE APPRAISAL OF THE  
8 EASEMENT MET ALL REQUIREMENTS ESTABLISHED IN ACCORDANCE WITH  
9 THIS SUBSECTION (7) IN EFFECT AT THE TIME THE APPRAISAL WAS  
10 COMPLETED.

11 (8) ANY APPRAISER WHO SUBMITS A COPY OF AN APPRAISAL TO  
12 THE DIVISION IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION  
13 SHALL PAY THE DIVISION A FEE AS PRESCRIBED BY THE DIVISION. THE FEE  
14 SHALL COVER THE COSTS OF THE DIVISION IN ADMINISTERING THE  
15 REQUIREMENTS OF THIS SECTION. THE STATE TREASURER SHALL CREDIT  
16 THE FEES TO THE CONSERVATION EASEMENT APPRAISAL REVIEW FUND,  
17 WHICH FUND IS HEREBY CREATED IN THE STATE TREASURY. MONEYS IN  
18 THE FUND SHALL BE ANNUALLY APPROPRIATED TO THE DIVISION FOR THE  
19 PURPOSES OF IMPLEMENTING AND ADMINISTERING THIS SECTION AND  
20 SHALL NOT REVERT TO THE GENERAL FUND AT THE END OF ANY FISCAL  
21 YEAR. THE FUND SHALL BE MAINTAINED IN ACCORDANCE WITH SECTION  
22 24-75-402, C.R.S.

23 **12-61-720. Certification of conservation easement holders -**  
24 **rules - repeal.** (1) THE DIVISION SHALL, IN CONSULTATION WITH THE  
25 COMMISSION CREATED IN SECTION 12-61-721, ESTABLISH AND ADMINISTER  
26 A CERTIFICATION PROGRAM FOR QUALIFIED ORGANIZATIONS UNDER  
27 SECTION 170 (h) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986",

1 AS AMENDED, THAT HOLD CONSERVATION EASEMENTS FOR WHICH A TAX  
2 CREDIT IS CLAIMED PURSUANT TO SECTION 39-22-522, C.R.S. THE  
3 PURPOSE OF THE PROGRAM SHALL BE TO:

4 (a) ESTABLISH MINIMUM QUALIFICATIONS FOR CERTIFYING  
5 ORGANIZATIONS THAT HOLD CONSERVATION EASEMENTS TO ENCOURAGE  
6 PROFESSIONALISM AND STABILITY; AND

7 (b) IDENTIFY FRAUDULENT OR UNQUALIFIED APPLICANTS TO  
8 PREVENT THEM FROM BECOMING CERTIFIED BY THE PROGRAM.

9 (2) THE CERTIFICATION PROGRAM SHALL BE ESTABLISHED AND  
10 COMMENCE ACCEPTING APPLICATIONS FOR CERTIFICATION NO LATER THAN  
11 JANUARY 1, 2009. THE DIVISION SHALL CONDUCT A REVIEW OF EACH  
12 APPLICATION AND CONSIDER THE RECOMMENDATIONS OF THE COMMISSION  
13 BEFORE MAKING A FINAL DETERMINATION TO GRANT OR DENY  
14 CERTIFICATION. IN REVIEWING AN APPLICATION AND IN GRANTING  
15 CERTIFICATION, THE DIVISION AND THE COMMISSION SHALL CONSIDER:

16 (a) THE APPLICANT'S PROCESS FOR REVIEWING, SELECTING, AND  
17 APPROVING A POTENTIAL CONSERVATION EASEMENT;

18 (b) THE APPLICANT'S STEWARDSHIP CAPACITY, INCLUDING THE  
19 ABILITY TO MAINTAIN, MONITOR, AND DEFEND THE PURPOSES OF THE  
20 EASEMENT;

21 (c) THE APPLICANT'S FINANCIAL CAPACITY AND INTEGRITY;

22 (d) THE APPLICANT'S SYSTEM OF GOVERNANCE AND ETHICS;

23 (e) ANY OTHER INFORMATION DEEMED RELEVANT BY THE DIVISION  
24 OR THE COMMISSION; AND

25 (f) THE UNIQUE CIRCUMSTANCES OF THE DIFFERENT ENTITIES TO  
26 WHICH THIS CERTIFICATION APPLIES AS SET FORTH IN SUBSECTION (4) OF  
27 THIS SECTION.



1           (3) AT THE TIME OF SUBMISSION OF AN APPLICATION, THE  
2           APPLICANT SHALL PAY THE DIVISION A FEE AS PRESCRIBED BY THE  
3           DIVISION. THE FEE SHALL COVER THE COSTS OF THE DIVISION AND THE  
4           COMMISSION IN ADMINISTERING THE CERTIFICATION PROGRAM FOR  
5           ENTITIES THAT HOLD CONSERVATION EASEMENTS FOR WHICH TAX CREDITS  
6           ARE CLAIMED PURSUANT TO SECTION 39-22-522, C.R.S. THE STATE  
7           TREASURER SHALL CREDIT FEES COLLECTED PURSUANT TO THIS  
8           SUBSECTION (3) TO THE CONSERVATION EASEMENT HOLDER  
9           CERTIFICATION FUND, WHICH FUND IS HEREBY CREATED IN THE STATE  
10          TREASURY. MONEYS IN THE FUND SHALL BE ANNUALLY APPROPRIATED TO  
11          THE DIVISION FOR THE PURPOSES OF IMPLEMENTING AND ADMINISTERING  
12          THIS SECTION AND SHALL NOT REVERT TO THE GENERAL FUND AT THE END  
13          OF ANY FISCAL YEAR. THE FUND SHALL BE MAINTAINED IN ACCORDANCE  
14          WITH SECTION 24-75-402, C.R.S.

15          (4) THE CERTIFICATION PROGRAM SHALL APPLY TO:

16               (a) NONPROFIT ENTITIES HOLDING EASEMENTS ON PROPERTY WITH  
17               CONSERVATION VALUES;

18               (b) NONPROFIT ENTITIES HOLDING EASEMENTS ON PROPERTIES OF  
19               HISTORICAL SIGNIFICANCE; AND

20               (c) THE STATE AND ANY MUNICIPALITY, COUNTY, CITY AND  
21               COUNTY, SPECIAL DISTRICT, OR OTHER POLITICAL SUBDIVISION OF THE  
22               STATE THAT HOLDS AN EASEMENT.

23          (5) THE CERTIFICATION PROGRAM MAY CONTAIN A PROVISION  
24          ALLOWING FOR THE EXPEDITED OR AUTOMATIC CERTIFICATION OF AN  
25          ENTITY THAT IS CURRENTLY ACCREDITED BY NATIONAL LAND  
26          CONSERVATION ORGANIZATIONS THAT ARE BROADLY ACCEPTED BY THE  
27          CONSERVATION INDUSTRY.

1           (6) THE COMMISSION SHALL MEET AT LEAST QUARTERLY AND  
2 MAKE RECOMMENDATIONS TO THE DIVISION REGARDING THE  
3 CERTIFICATION PROGRAM. THE DIVISION SHALL HAVE THE AUTHORITY TO  
4 DETERMINE WHETHER AN APPLICANT FOR CERTIFICATION POSSESSES THE  
5 NECESSARY QUALIFICATIONS FOR CERTIFICATION REQUIRED BY THE RULES  
6 ADOPTED BY THE DIVISION. IF THE DIVISION DETERMINES THAT AN  
7 APPLICANT DOES NOT POSSESS THE APPLICABLE QUALIFICATIONS FOR  
8 CERTIFICATION OR THAT THE APPLICANT HAS VIOLATED ANY PROVISION OF  
9 THIS PART 7, THE RULES PROMULGATED BY THE DIVISION, OR ANY DIVISION  
10 ORDER, THE DIVISION MAY DENY THE APPLICANT A CERTIFICATION OR  
11 DENY THE RENEWAL OF A CERTIFICATION; AND, IN SUCH INSTANCE, THE  
12 DIVISION SHALL PROVIDE THE APPLICANT WITH A STATEMENT IN WRITING  
13 SETTING FORTH THE BASIS OF THE DIVISION'S DETERMINATION. THE  
14 APPLICANT MAY REQUEST A HEARING ON THE DETERMINATION AS  
15 PROVIDED IN SECTION 24-4-104 (9), C.R.S. THE DIVISION SHALL NOTIFY  
16 SUCCESSFUL APPLICANTS IN WRITING. AN APPLICANT THAT IS NOT  
17 CERTIFIED MAY REAPPLY FOR CERTIFICATION IN ACCORDANCE WITH  
18 PROCEDURES ESTABLISHED BY THE DIVISION.

19           (7) THE DIVISION SHALL IMPLEMENT THE CERTIFICATION PROGRAM  
20 IN A MANNER THAT EITHER COMMENCES ACCEPTING APPLICATIONS FOR  
21 CERTIFICATION:

22           (a) AT THE SAME TIME FOR ALL TYPES OF ENTITIES THAT HOLD  
23 CONSERVATION EASEMENTS; OR

24           (b) DURING THE FIRST YEAR OF THE PROGRAM FOR LAND TRUSTS  
25 AND DURING THE SECOND YEAR OF THE PROGRAM FOR GOVERNMENTAL,  
26 HISTORIC, AND OTHER ENTITIES.

27           (8) BEGINNING ONE YEAR AFTER THE DIVISION COMMENCES

1 ACCEPTING APPLICATIONS TO CERTIFY THE TYPE OF ENTITY THAT HOLDS  
2 A CONSERVATION EASEMENT IN ACCORDANCE WITH THE PROVISIONS OF  
3 SUBSECTION (7) OF THIS SECTION, A TAX CREDIT MAY BE CLAIMED FOR THE  
4 EASEMENT PURSUANT TO SECTION 39-22-522, C.R.S., ONLY IF THE ENTITY  
5 HAS BEEN CERTIFIED IN ACCORDANCE WITH THE PROVISIONS OF THIS  
6 SECTION AT THE TIME THE DONATION OF THE EASEMENT IS MADE. THE  
7 DIVISION SHALL MAKE INFORMATION AVAILABLE TO THE PUBLIC  
8 CONCERNING THE DATE THAT IT COMMENCES ACCEPTING APPLICATIONS  
9 FOR ENTITIES THAT HOLD CONSERVATION EASEMENTS AND THE  
10 REQUIREMENTS OF THIS SUBSECTION (8).

11 (9) CERTIFICATION GRANTED IN ACCORDANCE WITH THE  
12 PROVISIONS OF THIS SECTION SHALL BE EFFECTIVE FOR A THREE-YEAR  
13 PERIOD.

14 (10) THE DIVISION SHALL MAINTAIN AND UPDATE AN ONLINE LIST  
15 THAT CAN BE ACCESSED BY THE PUBLIC OF THE ORGANIZATIONS THAT  
16 HAVE APPLIED FOR CERTIFICATION AND WHETHER EACH HAS BEEN  
17 CERTIFIED, REJECTED FOR CERTIFICATION, OR HAD ITS CERTIFICATION  
18 REVOKED OR SUSPENDED IN ACCORDANCE WITH THE PROVISIONS OF THIS  
19 SECTION.

20 (11) THE DIVISION SHALL HAVE THE AUTHORITY TO INVESTIGATE  
21 THE ACTIVITIES OF ANY ENTITY THAT IS REQUIRED TO BE CERTIFIED  
22 PURSUANT TO THIS SECTION AND TO IMPOSE DISCIPLINE FOR  
23 NONCOMPLIANCE, INCLUDING BUT NOT LIMITED TO THE SUSPENSION OR  
24 REVOCATION OF A CERTIFICATION OR THE IMPOSITION OF FINES. THE  
25 DIVISION SHALL HAVE THE AUTHORITY TO PROMULGATE RULES FOR THE  
26 CERTIFICATION PROGRAM AND DISCIPLINE AUTHORIZED BY THIS SECTION.  
27 SUCH RULES SHALL BE PROMULGATED IN ACCORDANCE WITH ARTICLE 4 OF

1 TITLE 24, C.R.S.

2 (12) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO:

3 (a) AFFECT ANY TAX CREDIT THAT WAS CLAIMED PURSUANT TO  
4 SECTION 39-22-522, C.R.S., PRIOR TO THE TIME CERTIFICATION WAS  
5 REQUIRED BY THIS SECTION; OR

6 (b) REQUIRE THE CERTIFICATION OF AN ENTITY THAT HOLDS A  
7 CONSERVATION EASEMENT FOR WHICH A TAX CREDIT IS NOT CLAIMED  
8 PURSUANT TO SECTION 39-22-522, C.R.S.

9 (13) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2018.

10 **12-61-721. Conservation easement oversight commission -**  
11 **created - repeal.** (1) THERE IS HEREBY CREATED IN THE DIVISION A  
12 CONSERVATION EASEMENT OVERSIGHT COMMISSION CONSISTING OF NINE  
13 MEMBERS AS FOLLOWS:

14 (a) ONE MEMBER REPRESENTING THE GREAT OUTDOORS  
15 COLORADO PROGRAM SHALL BE APPOINTED BY AND SERVE AT THE  
16 PLEASURE OF THE STATE BOARD OF THE GREAT OUTDOORS COLORADO  
17 TRUST FUND ESTABLISHED IN ARTICLE XXVII OF THE STATE  
18 CONSTITUTION;

19 (b) ONE MEMBER REPRESENTING THE DEPARTMENT OF NATURAL  
20 RESOURCES SHALL BE APPOINTED BY AND SERVE AT THE PLEASURE OF THE  
21 EXECUTIVE DIRECTOR OF THE DEPARTMENT;

22 (c) ONE MEMBER REPRESENTING THE DEPARTMENT OF  
23 AGRICULTURE SHALL BE APPOINTED BY AND SERVE AT THE PLEASURE OF  
24 THE EXECUTIVE DIRECTOR OF THE DEPARTMENT;

25 (d) SIX MEMBERS APPOINTED BY THE GOVERNOR AS FOLLOWS WITH  
26 AT LEAST ONE MEMBER WITH THE FOLLOWING QUALIFICATIONS OR  
27 REPRESENTING THE FOLLOWING INTERESTS:

- 1 (I) A LOCAL LAND TRUST;
- 2 (II) A STATEWIDE OR NATIONAL LAND TRUST;
- 3 (III) A LOCAL GOVERNMENT OPEN SPACE OR LAND CONSERVATION
- 4 AGENCY;
- 5 (IV) AN HISTORIC PRESERVATION ORGANIZATION WITH
- 6 EXPERIENCE IN EASEMENTS ON PROPERTIES OF HISTORICAL SIGNIFICANCE;
- 7 (V) A CERTIFIED GENERAL APPRAISER WITH EXPERIENCE IN
- 8 CONSERVATION EASEMENTS WHO MEETS ANY CLASSROOM EDUCATION
- 9 AND EXPERIENCE REQUIREMENTS ESTABLISHED BY THE BOARD IN
- 10 ACCORDANCE WITH SECTION 12-61-719; AND
- 11 (VI) A LANDOWNER THAT HAS DONATED A CONSERVATION
- 12 EASEMENT IN COLORADO.

13 (2) IN MAKING APPOINTMENTS TO THE COMMISSION, THE  
14 GOVERNOR SHALL CONSULT WITH THE THREE MEMBERS OF THE  
15 COMMISSION APPOINTED PURSUANT TO PARAGRAPHS (a) TO (c) OF  
16 SUBSECTION (1) OF THIS SECTION AND WITH APPROPRIATE ORGANIZATIONS  
17 REPRESENTING THE PARTICULAR INTEREST OR AREA OF EXPERTISE THAT  
18 THE APPOINTEE REPRESENTS. NOT MORE THAN THREE OF THE GOVERNOR'S  
19 APPOINTEES SERVING AT THE SAME TIME SHALL BE FROM THE SAME  
20 POLITICAL PARTY. IN MAKING THE INITIAL APPOINTMENTS, THE GOVERNOR  
21 SHALL APPOINT THREE MEMBERS FOR TERMS OF TWO YEARS. ALL OTHER  
22 APPOINTMENTS BY THE GOVERNOR SHALL BE FOR A TERM OF THREE YEARS.  
23 NO MEMBER SHALL SERVE MORE THAN TWO CONSECUTIVE TERMS. IN THE  
24 EVENT OF A VACANCY BY DEATH, RESIGNATION, REMOVAL, OR OTHERWISE,  
25 THE GOVERNOR SHALL APPOINT A MEMBER TO FILL THE UNEXPIRED TERM.  
26 THE GOVERNOR SHALL HAVE THE AUTHORITY TO REMOVE ANY MEMBER  
27 FOR MISCONDUCT, NEGLECT OF DUTY, OR INCOMPETENCE.

1           (3) THE COMMISSION SHALL ADVISE THE DIVISION AND THE  
2 DEPARTMENT OF REVENUE REGARDING CONSERVATION EASEMENTS FOR  
3 WHICH A STATE INCOME TAX CREDIT IS CLAIMED PURSUANT TO SECTION  
4 39-22-522, C.R.S. AT THE REQUEST OF THE DIVISION OR THE  
5 DEPARTMENT, THE COMMISSION SHALL REVIEW CONSERVATION EASEMENT  
6 TRANSACTIONS, APPLICATIONS, AND OTHER DOCUMENTS AND ADVISE THE  
7 DIVISION AND THE DEPARTMENT REGARDING CONSERVATION VALUES, THE  
8 CAPACITY OF CONSERVATION EASEMENT HOLDERS, AND THE INTEGRITY  
9 AND ACCURACY OF CONSERVATION EASEMENT TRANSACTIONS RELATED  
10 TO THE TAX CREDITS.

11           (4) THE COMMISSION SHALL MEET NOT LESS THAN ONCE EACH  
12 QUARTER TO REVIEW APPLICATIONS FOR CONSERVATION EASEMENT  
13 HOLDER CERTIFICATION SUBMITTED IN ACCORDANCE WITH SECTION  
14 12-61-720 AND TO REVIEW ANY OTHER ISSUES REFERRED TO THE  
15 COMMISSION BY THE DIVISION, THE DEPARTMENT OF REVENUE, OR ANY  
16 OTHER STATE ENTITY. THE DIVISION SHALL CONVENE THE MEETINGS OF  
17 THE COMMISSION AND PROVIDE STAFF SUPPORT AS REQUESTED BY THE  
18 COMMISSION. A MAJORITY OF THE MEMBERS OF THE COMMISSION SHALL  
19 CONSTITUTE A QUORUM FOR THE TRANSACTION OF ALL BUSINESS, AND  
20 ACTIONS OF THE COMMISSION SHALL REQUIRE A VOTE OF A MAJORITY OF  
21 SUCH MEMBERS PRESENT IN FAVOR OF THE ACTION TAKEN.

22           (5) ON OR BEFORE JANUARY 1, 2009, THE COMMISSION SHALL  
23 ESTABLISH A CONFLICT OF INTEREST POLICY TO ENSURE THAT ANY  
24 MEMBER OF THE COMMISSION SHALL BE DISQUALIFIED FROM PERFORMING  
25 ANY ACT THAT CONFLICTS WITH A PRIVATE PECUNIARY INTEREST OF THE  
26 MEMBER OR FROM PARTICIPATING IN THE DELIBERATION OR DECISION-  
27 MAKING PROCESS FOR CERTIFICATION FOR AN APPLICANT REPRESENTED BY

1 SUCH MEMBER.

2 (6) EACH MEMBER OF THE COMMISSION SHALL RECEIVE THE SAME  
3 COMPENSATION AND REIMBURSEMENT OF EXPENSES AS THOSE PROVIDED  
4 FOR MEMBERS OF BOARDS AND COMMISSIONS IN THE DIVISION OF  
5 REGISTRATIONS PURSUANT TO SECTION 24-34-102 (13), C.R.S. PAYMENT  
6 FOR ALL SUCH PER DIEM COMPENSATION AND EXPENSES SHALL BE MADE  
7 OUT OF ANNUAL APPROPRIATIONS FROM THE CONSERVATION EASEMENT  
8 HOLDER CERTIFICATION FUND CREATED IN SECTION 12-61-720 (3).

9 (7) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2018. PRIOR TO  
10 SUCH REPEAL, THE COMMISSION SHALL BE REVIEWED AS PROVIDED IN  
11 SECTION 24-34-104, C.R.S.

12 **SECTION 3.** The introductory portion to 24-33-112 (1) and  
13 24-33-112 (1) (d) (II) and (2), Colorado Revised Statutes, are amended,  
14 and the said 24-33-112 (1) is further amended BY THE ADDITION OF  
15 A NEW PARAGRAPH, to read:

16 **24-33-112. Conservation easement holders - submission of**  
17 **information.** (1) Any organization that accepts a donation of a  
18 conservation easement in gross for which a state income tax credit is  
19 claimed in accordance with the provisions of section 39-22-522, C.R.S.,  
20 shall submit the following information to the department of revenue ~~the~~  
21 ~~department of agriculture, and the department of natural resources~~ AND  
22 THE DIVISION OF REAL ESTATE IN THE DEPARTMENT OF REGULATORY  
23 AGENCIES:

24 (c.5) THE DATE ON WHICH THE ORGANIZATION RECEIVED  
25 CERTIFICATION PURSUANT TO SECTION 12-61-720, C.R.S.; AND

26 (d) A signed statement from the organization acknowledging that:

27 (II) The organization has adequate resources and policies in place

1 to provide annual monitoring of each conservation easement held by the  
2 organization in Colorado, EXCEPT FOR ANY CONSERVATION EASEMENT  
3 GRANTED TO A LOCAL GOVERNMENT THAT DID NOT INVOLVE A  
4 CHARITABLE DONATION.

5 (2) An organization that accepts a conservation easement in ~~any~~  
6 calendar year commencing ~~on or after~~ January 1, 2008, shall submit the  
7 information required by subsection (1) of this section prior to accepting  
8 the easement, but in no event later than April 15 of that calendar year. An  
9 organization shall not accept any donation of a conservation easement in  
10 gross for which a credit is claimed unless the organization has submitted  
11 the information required by this subsection (2) with the department of  
12 revenue, the department of agriculture, ~~and~~ the department of natural  
13 resources, AND THE DIVISION OF REAL ESTATE. The department of natural  
14 resources and the department of agriculture shall make the information  
15 available to the public upon request.

16 **SECTION 4.** 24-33-112, Colorado Revised Statutes, is amended  
17 BY THE ADDITION OF A NEW SUBSECTION to read:

18 **24-33-112. Conservation easement holders - submission of**  
19 **information.** (3) AN ORGANIZATION THAT ACCEPTS A CONSERVATION  
20 EASEMENT IN ANY CALENDAR YEAR COMMENCING ON OR AFTER JANUARY  
21 1, 2009, SHALL SUBMIT THE INFORMATION REQUIRED BY SUBSECTION (1)  
22 OF THIS SECTION PRIOR TO ACCEPTING THE EASEMENT, BUT IN NO EVENT  
23 LATER THAN APRIL 15 OF THAT CALENDAR YEAR. AN ORGANIZATION  
24 SHALL NOT ACCEPT ANY DONATION OF A CONSERVATION EASEMENT IN  
25 GROSS FOR WHICH A CREDIT IS CLAIMED UNLESS THE ORGANIZATION HAS  
26 SUBMITTED THE INFORMATION REQUIRED BY THIS SUBSECTION (3) WITH  
27 THE DEPARTMENT OF REVENUE AND THE DIVISION OF REAL ESTATE. THE



1 DEPARTMENT OF REVENUE AND THE DIVISION OF REAL ESTATE SHALL  
2 MAKE THE INFORMATION AVAILABLE TO THE PUBLIC UPON REQUEST.

3 **SECTION 5.** 24-34-104 (49), Colorado Revised Statutes, is  
4 amended to read:

5 **24-34-104. General assembly review of regulatory agencies**  
6 **and functions for termination, continuation, or reestablishment.**

7 (49) The following agencies, functions, or both, shall terminate on July  
8 1, 2018:

9 (a) The environmental management system permit program,  
10 created in article 6.6 of title 25, C.R.S.;

11 (b) THE CONSERVATION EASEMENT OVERSIGHT COMMISSION,  
12 CREATED IN SECTION 12-61-721, C.R.S.

13 **SECTION 6.** 39-21-113, Colorado Revised Statutes, is amended  
14 BY THE ADDITION OF A NEW SUBSECTION to read:

15 **39-21-113. Reports and returns.** (16) NOTWITHSTANDING ANY  
16 OTHER PROVISION OF THIS SECTION, THE EXECUTIVE DIRECTOR MAY  
17 REQUIRE THAT SUCH DETAILED INFORMATION REGARDING A CLAIM FOR A  
18 CREDIT FOR THE DONATION OF A CONSERVATION EASEMENT IN GROSS  
19 PURSUANT TO SECTION 39-22-522 AND ANY APPRAISAL SUBMITTED IN  
20 SUPPORT OF THE CREDIT CLAIMED BE GIVEN TO THE DIVISION OF REAL  
21 ESTATE IN THE DEPARTMENT OF REGULATORY AGENCIES AND THE  
22 CONSERVATION EASEMENT OVERSIGHT COMMISSION CREATED PURSUANT  
23 TO SECTION 12-61-721 (1), C.R.S., AS THE EXECUTIVE DIRECTOR  
24 DETERMINES IS NECESSARY IN THE PERFORMANCE OF THE DEPARTMENT'S  
25 FUNCTIONS RELATING TO THE CREDIT. THE EXECUTIVE DIRECTOR MAY  
26 PROVIDE COPIES OF ANY APPRAISAL AND MAY FILE A COMPLAINT  
27 REGARDING ANY APPRAISAL AS AUTHORIZED PURSUANT TO SECTION

1 39-22-522 (3.3). NOTWITHSTANDING THE PROVISIONS OF PART 2 OF  
2 ARTICLE 72 OF TITLE 24, C.R.S., IN ORDER TO PROTECT THE CONFIDENTIAL  
3 FINANCIAL INFORMATION OF A TAXPAYER, THE EXECUTIVE DIRECTOR  
4 SHALL DENY THE RIGHT TO INSPECT ANY INFORMATION OR APPRAISAL  
5 REQUIRED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBSECTION  
6 (16).

7 **SECTION 7.** 39-22-522 (3) (b), (3) (e), (3) (f) (I), (3.3), and  
8 (3.5), Colorado Revised Statutes, are amended, and the said 39-22-522 is  
9 further amended BY THE ADDITION OF A NEW SUBSECTION, to  
10 read:

11 **39-22-522. Credit against tax - conservation easements.** (3) In  
12 order for any taxpayer to qualify for the credit provided for in subsection  
13 (2) of this section, the taxpayer shall submit the following in a form  
14 approved by the executive director to the department of revenue at the  
15 same time as the taxpayer files a return for the taxable year in which the  
16 credit is claimed:

17 (b) A statement that reflects the information included in the  
18 noncash charitable contributions form used to claim a deduction for a  
19 conservation easement in gross on a federal income tax return AND  
20 WHETHER THE DONATION WAS MADE IN ORDER TO GET A PERMIT OR OTHER  
21 APPROVAL FROM A LOCAL OR OTHER GOVERNING AUTHORITY;

22 (e) ~~A sworn affidavit from the appraiser that includes:~~ COPY OF  
23 THE APPRAISAL AND ACCOMPANYING AFFIDAVIT FROM THE APPRAISER  
24 SUBMITTED TO THE DIVISION OF REAL ESTATE IN THE DEPARTMENT OF  
25 REGULATORY AGENCIES IN ACCORDANCE WITH THE PROVISIONS OF  
26 SECTION 12-61-719, C.R.S.

27 ~~(f) A statement specifying the value of the unencumbered property~~

1 and the total value of the conservation easement in gross;  
2 (H) ~~If the appraisal separately allocates the values of sand and~~  
3 ~~gravel, minerals, water, or improvements, a statement of the separate~~  
4 ~~value of the sand and gravel, minerals, water, or improvements before and~~  
5 ~~after the conservation easement in gross is granted;~~  
6 (HH) ~~An acknowledgment specifying whether a subdivision~~  
7 ~~analysis was the primary methodology used in the appraisal; and~~  
8 (IV) ~~A statement specifying how the appraiser satisfies qualified~~  
9 ~~appraiser and licensing requirements set forth in subsection (3.3) of this~~  
10 ~~section; and~~  
11 (f) A sworn affidavit from the holder of the conservation easement  
12 in gross that includes the following:  
13 (I) ~~A copy of the information filed by the holder~~ AN  
14 ACKNOWLEDGMENT THAT THE HOLDER HAS FILED THE INFORMATION with  
15 the department of revenue ~~the department of agriculture, and the~~  
16 ~~department of natural resources~~ AND THE DIVISION OF REAL ESTATE in  
17 accordance with section 24-33-112, C.R.S.;;  
18 (3.3) The appraisal for a conservation easement in gross for which  
19 a credit is claimed shall be a qualified appraisal from a qualified  
20 appraiser, as those terms are defined in section 170 (f) (11) of the internal  
21 revenue code. The appraisal shall be in conformance with the uniform  
22 standards for professional appraisal practice promulgated by the appraisal  
23 standards board OF THE APPRAISAL FOUNDATION AND ANY OTHER  
24 PROVISION OF LAW. The appraiser shall hold a valid license as a certified  
25 general appraiser in accordance with the provisions of part 7 of article 61  
26 of title 12, C.R.S. THE APPRAISER SHALL ALSO MEET ANY EDUCATION  
27 AND EXPERIENCE REQUIREMENTS ESTABLISHED BY THE BOARD OF REAL

1 ESTATE APPRAISERS IN ACCORDANCE WITH SECTION 12-61-719 (7), C.R.S.  
2 If there is a final determination, other than by settlement of the taxpayer,  
3 that an appraisal submitted in connection with a claim for a credit  
4 pursuant to this section is a substantial or gross valuation misstatement as  
5 such misstatements are defined in section 1219 of the federal "Pension  
6 Protection Act of 2006", Pub.L. 109-280, the department shall submit a  
7 complaint regarding the misstatement to the board of real estate  
8 appraisers for disciplinary action in accordance with the provisions of part  
9 7 of article 61 of title 12, C.R.S.

10 (3.5) The executive director shall have the authority, pursuant to  
11 subsection (8) of this section, to require additional information from the  
12 taxpayer or transferee regarding the appraisal value of the easement, the  
13 amount of the credit, and the validity of the credit. In resolving disputes  
14 regarding the validity or the amount of a credit allowed pursuant to  
15 subsection (2) of this section, including the value of the conservation  
16 easement for which the credit is granted, the executive director shall have  
17 the authority, for good cause shown AND IN CONSULTATION WITH THE  
18 DIVISION OF REAL ESTATE AND THE CONSERVATION EASEMENT OVERSIGHT  
19 COMMISSION CREATED IN SECTION 12-61-721 (1), C.R.S., to review and  
20 accept or reject, in whole or in part, the appraisal value of the easement,  
21 the amount of the credit, and the validity of the credit based upon the  
22 internal revenue code and federal regulations in effect at the time of the  
23 donation. If the executive director reasonably believes that the appraisal  
24 represents a gross valuation misstatement, OR IF THE EXECUTIVE DIRECTOR  
25 RECEIVES NOTICE OF SUCH A VALUATION MISSTATEMENT FROM THE  
26 DIVISION OF REAL ESTATE, the executive director shall have the authority  
27 to require the taxpayer to provide a second appraisal at the expense of the

1 taxpayer. THE SECOND APPRAISAL SHALL BE CONDUCTED BY A CERTIFIED  
2 GENERAL APPRAISER THAT MEETS QUALIFICATIONS ESTABLISHED BY THE  
3 DIVISION OF REAL ESTATE. In the event the executive director rejects, in  
4 whole or in part, the appraisal value of the easement, the amount of the  
5 credit, or the validity of the credit, the procedures described in sections  
6 39-21-103, 39-21-104, 39-21-104.5, and 39-21-105 shall apply.

7 (3.7) IF THE GAIN ON THE SALE OF A CONSERVATION EASEMENT IN  
8 GROSS FOR WHICH A CREDIT IS CLAIMED PURSUANT TO THIS SECTION  
9 WOULD NOT HAVE BEEN A LONG-TERM CAPITAL GAIN, AS DEFINED UNDER  
10 THE INTERNAL REVENUE CODE, IF, AT THE TIME OF THE DONATION, THE  
11 TAXPAYER HAD SOLD THE CONSERVATION EASEMENT AT ITS FAIR MARKET  
12 VALUE, THEN THE VALUE OF THE CONSERVATION EASEMENT IN GROSS FOR  
13 THE PURPOSE OF CALCULATING THE AMOUNT OF THE CREDIT SHALL BE  
14 REDUCED TO THE TAXPAYER'S TAX BASIS IN THE CONSERVATION  
15 EASEMENT IN GROSS. THE TAX BASIS OF A TAXPAYER IN A CONSERVATION  
16 EASEMENT SHALL BE DETERMINED AND ALLOCATED PURSUANT TO  
17 SECTIONS 170 (e) AND 170 (h) OF THE INTERNAL REVENUE CODE, AS  
18 AMENDED, AND ANY FEDERAL REGULATIONS PROMULGATED IN  
19 CONNECTION WITH SUCH SECTIONS. THIS SUBSECTION (3.7) SHALL BE  
20 APPLIED IN A MANNER THAT IS CONSISTENT WITH THE TAX TREATMENT OF  
21 QUALIFIED CONSERVATION CONTRIBUTIONS UNDER THE INTERNAL  
22 REVENUE CODE AND THE FEDERAL REGULATIONS PROMULGATED UNDER  
23 THE INTERNAL REVENUE CODE.

24 **SECTION 8. Effective date.** This act shall take effect July 1,  
25 2008.

26 **SECTION 9. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.