

Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 08-0713.01 Gregg Fraser

HOUSE BILL 08-1353

HOUSE SPONSORSHIP

Madden, Buescher, Curry, and Roberts

SENATE SPONSORSHIP

Isgar, and Penry

House Committees

Finance
Appropriations

Senate Committees

Finance
Appropriations

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, REQUIRING A POST-ENACTMENT**
105 **REVIEW OF THE IMPLEMENTATION OF THIS ACT, AND MAKING AN**
106 **APPROPRIATION IN CONNECTION THEREWITH.**

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

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
April 11, 2008

HOUSE
Amended 2nd Reading
April 10, 2008

real estate (division) rather than the department of agriculture and the department of natural resources. Requires the appraisal to be submitted 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. Expects 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.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds, determines, and declares that:

4 (a) Colorado's conservation easement tax credit program was
5 designed to give landowners an incentive to preserve their land for
6 conservation and other values that would be eliminated or compromised
7 by development;

8 (b) Some promoters have abused the tax credit program to obtain
9 a financial benefit for themselves and their clients by submitting
10 easements that misrepresent a property's conservation or financial values.

11 (2) The general assembly determines that, pursuant to section 9 of
12 this act, it is appropriate for the legislative service agencies to conduct a

1 post-enactment review of this act two years after its enactment in
2 accordance with section 2-2-1201, C.R.S., and report their findings
3 relating to the implementation of this act to the general assembly. It is the
4 intent of the general assembly that desired results and benefits of this act
5 are as follows:

6 (a) To address abuses of the conservation easement tax credit
7 program while continuing to allow legitimate participants and the state of
8 Colorado to continue to benefit from the program;

9 (b) To have the division of real estate review appraisals of
10 conservation easements and affidavits of appraisers submitted to the
11 division and maintain the information in an electronic database;

12 (c) To have the division of real estate investigate the activities of
13 appraisers of conservation easements to ensure that the appraisers are
14 complying with the uniform standards of professional appraisal practice
15 and other requirements of law;

16 (d) To establish and administer a program to certify conservation
17 easement holders to identify fraudulent or unqualified organizations and
18 prevent them from holding conservation easements for which tax credits are
19 claimed in the state;

20 (e) To establish a conservation easement oversight commission to
21 advise the division of real estate and the department of revenue regarding
22 conservation easements for which a tax credit is claimed and to review
23 applications for conservation easement holder certification; and

24 (f) To ensure that the division of real estate and the department of
25 revenue are sharing relevant information concerning conservation
26 easement appraisals in order to ensure compliance with accepted
27 appraisal practices and other provisions of law.

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

3 **12-61-702. Definitions.** As used in this part 7, unless the context
4 otherwise requires:

5 (2.3) "COMMISSION" MEANS THE CONSERVATION EASEMENT
6 OVERSIGHT COMMISSION CREATED IN SECTION 12-61-721 (1).

7 **SECTION 3.** Part 7 of article 61 of title 12, Colorado Revised
8 Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW
9 SECTIONS to read:

10 **12-61-719. Conservation easement appraisals.** (1) ANY
11 APPRAISER WHO CONDUCTS AN APPRAISAL FOR A CONSERVATION
12 EASEMENT SHALL SUBMIT A COPY OF THE COMPLETED APPRAISAL TO THE
13 DIVISION WITHIN THIRTY DAYS FOLLOWING THE COMPLETION OF THE
14 APPRAISAL. FOR PURPOSES OF THIS SECTION, "COMPLETION OF THE
15 APPRAISAL" SHALL MEAN THAT THE CERTIFICATION PAGE, AS DEFINED IN
16 THE UNIFORM STANDARDS FOR PROFESSIONAL APPRAISAL PRACTICE,
17 PROMULGATED BY THE APPRAISAL STANDARDS BOARD, SHALL HAVE BEEN
18 SIGNED BY THE APPRAISER AND THE APPRAISAL HAS BEEN DELIVERED TO
19 THE CLIENT OF THE APPRAISER. THE APPRAISAL SHALL BE ACCOMPANIED
20 BY AN AFFIDAVIT FROM THE APPRAISER THAT INCLUDES, BUT IS NOT
21 LIMITED TO, THE FOLLOWING:

22 (a) A STATEMENT SPECIFYING THE VALUE OF THE UNENCUMBERED
23 PROPERTY AND THE TOTAL VALUE OF THE CONSERVATION EASEMENT IN
24 GROSS ALONG WITH DETAILS OF WHAT METHODS THE APPRAISER USED TO
25 DETERMINE THESE VALUES;

26 (b) IF THE APPRAISAL SEPARATELY ALLOCATES THE VALUES OF
27 SAND AND GRAVEL, MINERALS, WATER, OR IMPROVEMENTS, A STATEMENT

1 OF THE SEPARATE VALUE OF THE SAND AND GRAVEL, MINERALS, WATER,
2 OR IMPROVEMENTS BEFORE AND AFTER THE CONSERVATION EASEMENT IN
3 GROSS IS GRANTED;

4 (c) AN ACKNOWLEDGMENT SPECIFYING WHETHER A SUBDIVISION
5 ANALYSIS WAS USED TO ESTABLISH THE CONSERVATION VALUE IN THE
6 APPRAISAL;

7 (d) A STATEMENT CLARIFYING WHETHER OR NOT THE LANDOWNER
8 OR A FAMILY MEMBER AS DEFINED IN SECTION 267 (c) (4) OF THE FEDERAL
9 "INTERNAL REVENUE CODE OF 1986", AS AMENDED, OWNS OTHER
10 PROPERTY CONTIGUOUS TO THE PROPERTY ENCUMBERED BY THE
11 APPRAISED CONSERVATION EASEMENT OR OWNS OTHER PROPERTY, OF
12 WHICH THE VALUE MAY BE INCREASED BY THE DONATION OF THE
13 PROPERTY ENCUMBERED BY THE APPRAISED CONSERVATION EASEMENT,
14 WHETHER CONTIGUOUS OR NOT, OWNED BY THE LANDOWNER OR RELATED
15 PERSON AS DEFINED IN SECTION 267 (b) OF THE FEDERAL "INTERNAL
16 REVENUE CODE OF 1986", AS AMENDED;

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

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

24 AND

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

27 (2) AN AFFIDAVIT SUBMITTED IN ACCORDANCE WITH THE

1 PROVISIONS OF THIS SECTION SHALL BE IN A FORM APPROVED BY THE
2 BOARD. THE BOARD SHALL HAVE THE AUTHORITY TO PROMULGATE RULES
3 CONCERNING THE FORM AND CONTENT OF THE AFFIDAVIT. SUCH RULES
4 SHALL BE PROMULGATED IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24,
5 C.R.S. A COPY OF THE AFFIDAVIT AND THE COMPLETED APPRAISAL SHALL
6 BE PROVIDED TO THE LANDOWNER.

7 (3) THE DIVISION SHALL REVIEW THE INFORMATION SUBMITTED IN
8 ACCORDANCE WITH THIS SECTION TO ENSURE THAT IT IS COMPLETE AND
9 SHALL RECORD AND MAINTAIN THE INFORMATION SUBMITTED AS PART OF
10 THE AFFIDAVIT IN AN ELECTRONIC DATABASE. THE DIVISION SHALL HAVE
11 THE AUTHORITY TO SHARE THE INFORMATION WITH THE DEPARTMENT OF
12 REVENUE. NOTWITHSTANDING THE PROVISIONS OF PART 2 OF ARTICLE 72
13 OF TITLE 24, C.R.S., THE DIVISION'S CUSTODIAN OF RECORDS SHALL DENY
14 THE RIGHT OF INSPECTION OF ANY APPRAISAL, AFFIDAVIT, OR OTHER
15 RECORD RELATED TO INFORMATION SUBMITTED IN ACCORDANCE WITH THE
16 PROVISION OF THIS SECTION UNLESS AND UNTIL SUCH TIME AS THE
17 DIVISION FILES A NOTICE OF CHARGES RELATED TO THE INFORMATION.

18 (4) THE BOARD IN ITS DISCRETION MAY, OR UPON RECEIVING A
19 WRITTEN COMPLAINT FROM ANY PERSON SHALL, INVESTIGATE THE
20 ACTIVITIES OF ANY APPRAISER WHO SUBMITS ANY INFORMATION IN
21 ACCORDANCE WITH THE PROVISIONS OF THIS SECTION. THE
22 INVESTIGATION SHALL CONSIDER WHETHER THE APPRAISER COMPLIED
23 WITH THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE
24 AND ANY OTHER PROVISION OF LAW. IN CONDUCTING THE INVESTIGATION,
25 THE DIVISION SHALL HAVE THE AUTHORITY TO CONSULT WITH THE
26 COMMISSION.

27 (5) IF THE BOARD DETERMINES THAT A MATERIAL VIOLATION OF

1 THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE OR A
2 SUBSTANTIAL MISSTATEMENT OF VALUE HAS OCCURRED IN ANY APPRAISAL
3 SUBMITTED IN ACCORDANCE WITH THIS SECTION, THE BOARD SHALL
4 NOTIFY THE DEPARTMENT OF REVENUE REGARDING THE APPRAISAL AND
5 PROVIDE THE DEPARTMENT WITH A COPY OF THE APPRAISAL AND A
6 SUMMARY OF THE DIVISION'S FINDINGS.

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

11 (7) THE BOARD SHALL HAVE THE AUTHORITY TO ESTABLISH
12 CLASSROOM EDUCATION AND EXPERIENCE REQUIREMENTS FOR AN
13 APPRAISER WHO PREPARES AN APPRAISAL FOR A CONSERVATION
14 EASEMENT PURSUANT TO SECTION 39-22-522, C.R.S. SUCH
15 REQUIREMENTS SHALL BE ESTABLISHED TO ENSURE THAT APPRAISERS
16 HAVE A SUFFICIENT AMOUNT OF TRAINING AND EXPERTISE TO
17 ACCURATELY PREPARE APPRAISALS THAT COMPLY WITH THE UNIFORM
18 STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE AND ANY OTHER
19 PROVISION OF LAW RELATED TO THE APPRAISAL OF CONSERVATION
20 EASEMENTS. A CREDIT FOR A CONSERVATION EASEMENT SHALL NOT BE
21 ALLOWED UNLESS THE APPRAISER WHO PREPARED THE APPRAISAL OF THE
22 EASEMENT MET ALL REQUIREMENTS ESTABLISHED IN ACCORDANCE WITH
23 THIS SUBSECTION (7) IN EFFECT AT THE TIME THE APPRAISAL WAS
24 COMPLETED.

25 (8) ANY APPRAISER WHO SUBMITS A COPY OF AN APPRAISAL TO
26 THE DIVISION IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION
27 SHALL PAY THE DIVISION A FEE AS PRESCRIBED BY THE DIVISION. THE FEE

1 SHALL COVER THE COSTS OF THE DIVISION IN ADMINISTERING THE
2 REQUIREMENTS OF THIS SECTION. THE STATE TREASURER SHALL CREDIT
3 THE FEES TO THE CONSERVATION EASEMENT APPRAISAL REVIEW FUND,
4 WHICH FUND IS HEREBY CREATED IN THE STATE TREASURY. MONEYS IN
5 THE FUND SHALL BE ANNUALLY APPROPRIATED TO THE DIVISION FOR THE
6 PURPOSES OF IMPLEMENTING AND ADMINISTERING THIS SECTION AND
7 SHALL NOT REVERT TO THE GENERAL FUND AT THE END OF ANY FISCAL
8 YEAR. THE FUND SHALL BE MAINTAINED IN ACCORDANCE WITH SECTION
9 24-75-402, C.R.S.; EXCEPT THAT IN NO EVENT SHALL THE FEE EXCEED THE
10 AMOUNT OF SIX HUNDRED DOLLARS FOR EACH APPRAISAL SUBMITTED. ON
11 OR BEFORE JANUARY 1, 2009, AND ON OR BEFORE EACH JANUARY 1
12 THEREAFTER, THE DIVISION SHALL CERTIFY TO THE GENERAL ASSEMBLY
13 THE AMOUNT OF THE FEE PRESCRIBED BY THE DIVISION PURSUANT TO THIS
14 SUBSECTION (8).

15 **12-61-720. Certification of conservation easement holders -**
16 **rules - repeal.** (1) THE DIVISION SHALL, IN CONSULTATION WITH THE
17 COMMISSION CREATED IN SECTION 12-61-721, ESTABLISH AND ADMINISTER
18 A CERTIFICATION PROGRAM FOR QUALIFIED ORGANIZATIONS UNDER
19 SECTION 170 (h) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986",
20 AS AMENDED, THAT HOLD CONSERVATION EASEMENTS FOR WHICH A TAX
21 CREDIT IS CLAIMED PURSUANT TO SECTION 39-22-522, C.R.S. THE
22 PURPOSE OF THE PROGRAM SHALL BE TO:

23 (a) ESTABLISH MINIMUM QUALIFICATIONS FOR CERTIFYING
24 ORGANIZATIONS THAT HOLD CONSERVATION EASEMENTS TO ENCOURAGE
25 PROFESSIONALISM AND STABILITY; AND

26 (b) IDENTIFY FRAUDULENT OR UNQUALIFIED APPLICANTS AS
27 DEFINED BY THE RULES OF THE DIVISION TO PREVENT THEM FROM

1 BECOMING CERTIFIED BY THE PROGRAM.

2 (2) THE CERTIFICATION PROGRAM SHALL BE ESTABLISHED AND
3 COMMENCE ACCEPTING APPLICATIONS FOR CERTIFICATION NO LATER THAN
4 JANUARY 1, 2009. THE DIVISION SHALL CONDUCT A REVIEW OF EACH
5 APPLICATION AND CONSIDER THE RECOMMENDATIONS OF THE COMMISSION
6 BEFORE MAKING A FINAL DETERMINATION TO GRANT OR DENY
7 CERTIFICATION. IN REVIEWING AN APPLICATION AND IN GRANTING
8 CERTIFICATION, THE DIVISION AND THE COMMISSION MAY CONSIDER:

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

11 (b) THE APPLICANT'S STEWARDSHIP PRACTICES AND CAPACITY,
12 INCLUDING THE ABILITY TO MAINTAIN, MONITOR, AND DEFEND THE
13 PURPOSES OF THE EASEMENT;

14 (c) AN AUDIT OF THE APPLICANT'S FINANCIAL RECORDS;

15 (d) THE APPLICANT'S SYSTEM OF GOVERNANCE AND ETHICS
16 REGARDING CONFLICTS OF INTEREST AND TRANSACTIONS WITH RELATED
17 PARTIES AS DESCRIBED IN SECTION 267 (b) OF THE FEDERAL "INTERNAL
18 REVENUE CODE OF 1986", AS AMENDED, DONORS, BOARD MEMBERS, AND
19 INSIDERS. FOR PURPOSES OF THIS PARAGRAPH (d), "INSIDERS" MEANS
20 BOARD AND STAFF MEMBERS, SUBSTANTIAL CONTRIBUTORS, PARTIES
21 RELATED TO THOSE ABOVE, THOSE WHO HAVE AN ABILITY TO INFLUENCE
22 DECISIONS OF THE ORGANIZATION, AND THOSE WITH ACCESS TO
23 INFORMATION NOT AVAILABLE TO THE GENERAL PUBLIC.

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

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

1 THIS SECTION.

2 (3) AT THE TIME OF SUBMISSION OF AN APPLICATION, THE
3 APPLICANT SHALL PAY THE DIVISION A FEE AS PRESCRIBED BY THE
4 DIVISION. THE FEE SHALL COVER THE COSTS OF THE DIVISION AND THE
5 COMMISSION IN ADMINISTERING THE CERTIFICATION PROGRAM FOR
6 ENTITIES THAT HOLD CONSERVATION EASEMENTS FOR WHICH TAX CREDITS
7 ARE CLAIMED PURSUANT TO SECTION 39-22-522, C.R.S. THE STATE
8 TREASURER SHALL CREDIT FEES COLLECTED PURSUANT TO THIS
9 SUBSECTION (3) TO THE CONSERVATION EASEMENT HOLDER
10 CERTIFICATION FUND, WHICH FUND IS HEREBY CREATED IN THE STATE
11 TREASURY. MONEYS IN THE FUND SHALL BE ANNUALLY APPROPRIATED TO
12 THE DIVISION FOR THE PURPOSES OF IMPLEMENTING AND ADMINISTERING
13 THIS SECTION AND SHALL NOT REVERT TO THE GENERAL FUND AT THE END
14 OF ANY FISCAL YEAR. THE FUND SHALL BE MAINTAINED IN ACCORDANCE
15 WITH SECTION 24-75-402, C.R.S.; EXCEPT THAT IN NO EVENT SHALL THE
16 FEE EXCEED THE AMOUNT OF FIVE THOUSAND EIGHT HUNDRED TEN
17 DOLLARS FOR EACH APPLICATION SUBMITTED. ON OR BEFORE JANUARY 1,
18 2009, AND ON OR BEFORE EACH JANUARY 1 THEREAFTER, THE DIVISION
19 SHALL CERTIFY TO THE GENERAL ASSEMBLY THE AMOUNT OF THE FEE
20 PRESCRIBED BY THE DIVISION PURSUANT TO THIS SUBSECTION (3).

21 (4) THE CERTIFICATION PROGRAM SHALL APPLY TO:

22 (a) NONPROFIT ENTITIES HOLDING EASEMENTS ON PROPERTY WITH
23 CONSERVATION VALUES CONSISTING OF RECREATION OR EDUCATION,
24 PROTECTION OF ENVIRONMENTAL SYSTEMS, OR PRESERVATION OF OPEN
25 SPACE;

26 (b) NONPROFIT ENTITIES HOLDING EASEMENTS ON PROPERTY FOR
27 HISTORIC PRESERVATION; AND

1 (c) THE STATE AND ANY MUNICIPALITY, COUNTY, CITY AND
2 COUNTY, SPECIAL DISTRICT, OR OTHER POLITICAL SUBDIVISION OF THE
3 STATE THAT HOLDS AN EASEMENT.

4 (5) THE CERTIFICATION PROGRAM MAY CONTAIN A PROVISION
5 ALLOWING FOR THE EXPEDITED OR AUTOMATIC CERTIFICATION OF AN
6 ENTITY THAT IS CURRENTLY ACCREDITED BY NATIONAL LAND
7 CONSERVATION ORGANIZATIONS THAT ARE BROADLY ACCEPTED BY THE
8 CONSERVATION INDUSTRY.

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

27 (7) THE DIVISION SHALL IMPLEMENT THE CERTIFICATION PROGRAM

1 IN A MANNER THAT EITHER COMMENCES ACCEPTING APPLICATIONS FOR
2 CERTIFICATION:

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

5 (b) DURING THE FIRST YEAR OF THE PROGRAM FOR ENTITIES
6 DESCRIBED IN PARAGRAPH (a) OF SUBSECTION (4) OF THIS SECTION AND
7 DURING THE SECOND YEAR OF THE PROGRAM FOR ENTITIES DESCRIBED
8 IN PARAGRAPHS (b) AND (c) OF SUBSECTION (4) OF THIS SECTION, AND
9 OTHER ENTITIES.

10 (8) BEGINNING ONE YEAR AFTER THE DIVISION COMMENCES
11 ACCEPTING APPLICATIONS TO CERTIFY THE TYPE OF ENTITY THAT HOLDS
12 A CONSERVATION EASEMENT IN ACCORDANCE WITH THE PROVISIONS OF
13 SUBSECTION (7) OF THIS SECTION, A TAX CREDIT MAY BE CLAIMED FOR THE
14 EASEMENT PURSUANT TO SECTION 39-22-522, C.R.S., ONLY IF THE ENTITY
15 HAS BEEN CERTIFIED IN ACCORDANCE WITH THE PROVISIONS OF THIS
16 SECTION AT THE TIME THE DONATION OF THE EASEMENT IS MADE. THE
17 DIVISION SHALL MAKE INFORMATION AVAILABLE TO THE PUBLIC
18 CONCERNING THE DATE THAT IT COMMENCES ACCEPTING APPLICATIONS
19 FOR ENTITIES THAT HOLD CONSERVATION EASEMENTS AND THE
20 REQUIREMENTS OF THIS SUBSECTION (8).

21 (9) CERTIFICATION GRANTED IN ACCORDANCE WITH THE
22 PROVISIONS OF THIS SECTION SHALL BE EFFECTIVE FOR A THREE-YEAR
23 PERIOD.

24 (10) THE DIVISION SHALL MAINTAIN AND UPDATE AN ONLINE LIST
25 THAT CAN BE ACCESSED BY THE PUBLIC OF THE ORGANIZATIONS THAT
26 HAVE APPLIED FOR CERTIFICATION AND WHETHER EACH HAS BEEN
27 CERTIFIED, REJECTED FOR CERTIFICATION, OR HAD ITS CERTIFICATION

1 REVOKED OR SUSPENDED IN ACCORDANCE WITH THE PROVISIONS OF THIS
2 SECTION.

3 (11) THE DIVISION SHALL HAVE THE AUTHORITY TO INVESTIGATE
4 THE ACTIVITIES OF ANY ENTITY THAT IS REQUIRED TO BE CERTIFIED
5 PURSUANT TO THIS SECTION AND TO IMPOSE DISCIPLINE FOR
6 NONCOMPLIANCE, INCLUDING BUT NOT LIMITED TO THE SUSPENSION OR
7 REVOCATION OF A CERTIFICATION OR THE IMPOSITION OF FINES. THE
8 DIVISION SHALL HAVE THE AUTHORITY TO PROMULGATE RULES FOR THE
9 CERTIFICATION PROGRAM AND DISCIPLINE AUTHORIZED BY THIS SECTION.
10 SUCH RULES SHALL BE PROMULGATED IN ACCORDANCE WITH ARTICLE 4 OF
11 TITLE 24, C.R.S.

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

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

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

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

20 **12-61-721. Conservation easement oversight commission -**
21 **created - repeal.** (1) THERE IS HEREBY CREATED IN THE DIVISION A
22 CONSERVATION EASEMENT OVERSIGHT COMMISSION CONSISTING OF NINE
23 MEMBERS AS FOLLOWS:

24 (a) ONE MEMBER REPRESENTING THE GREAT OUTDOORS
25 COLORADO PROGRAM SHALL BE APPOINTED BY AND SERVE AT THE
26 PLEASURE OF THE STATE BOARD OF THE GREAT OUTDOORS COLORADO
27 TRUST FUND ESTABLISHED IN ARTICLE XXVII OF THE STATE

1 CONSTITUTION;

2 (b) ONE MEMBER REPRESENTING THE DEPARTMENT OF NATURAL
3 RESOURCES SHALL BE APPOINTED BY AND SERVE AT THE PLEASURE OF THE
4 EXECUTIVE DIRECTOR OF THE DEPARTMENT;

5 (c) ONE MEMBER REPRESENTING THE DEPARTMENT OF
6 AGRICULTURE SHALL BE APPOINTED BY AND SERVE AT THE PLEASURE OF
7 THE EXECUTIVE DIRECTOR OF THE DEPARTMENT;

8 (d) SIX MEMBERS APPOINTED BY THE GOVERNOR AS FOLLOWS WITH
9 AT LEAST ONE MEMBER WITH THE FOLLOWING QUALIFICATIONS OR
10 REPRESENTING THE FOLLOWING INTERESTS:

11 (I) A LOCAL LAND TRUST;

12 (II) A STATEWIDE OR NATIONAL LAND TRUST;

13 (III) A LOCAL GOVERNMENT OPEN SPACE OR LAND CONSERVATION
14 AGENCY;

15 (IV) AN HISTORIC PRESERVATION ORGANIZATION WITH
16 EXPERIENCE IN EASEMENTS ON PROPERTIES OF HISTORICAL SIGNIFICANCE;

17 (V) A CERTIFIED GENERAL APPRAISER WITH EXPERIENCE IN
18 CONSERVATION EASEMENTS WHO MEETS ANY CLASSROOM EDUCATION
19 AND EXPERIENCE REQUIREMENTS ESTABLISHED BY THE BOARD IN
20 ACCORDANCE WITH SECTION 12-61-719; AND

21 (VI) A LANDOWNER THAT HAS DONATED A CONSERVATION
22 EASEMENT IN COLORADO.

23 (2) IN MAKING APPOINTMENTS TO THE COMMISSION, THE
24 GOVERNOR SHALL CONSULT WITH THE THREE MEMBERS OF THE
25 COMMISSION APPOINTED PURSUANT TO PARAGRAPHS (a) TO (c) OF
26 SUBSECTION (1) OF THIS SECTION AND WITH APPROPRIATE ORGANIZATIONS
27 REPRESENTING THE PARTICULAR INTEREST OR AREA OF EXPERTISE THAT

1 THE APPOINTEE REPRESENTS. NOT MORE THAN THREE OF THE GOVERNOR'S
2 APPOINTEES SERVING AT THE SAME TIME SHALL BE FROM THE SAME
3 POLITICAL PARTY. IN MAKING THE INITIAL APPOINTMENTS, THE GOVERNOR
4 SHALL APPOINT THREE MEMBERS FOR TERMS OF TWO YEARS. ALL OTHER
5 APPOINTMENTS BY THE GOVERNOR SHALL BE FOR A TERM OF THREE YEARS.
6 NO MEMBER SHALL SERVE MORE THAN TWO CONSECUTIVE TERMS. IN THE
7 EVENT OF A VACANCY BY DEATH, RESIGNATION, REMOVAL, OR OTHERWISE,
8 THE GOVERNOR SHALL APPOINT A MEMBER TO FILL THE UNEXPIRED TERM.
9 THE GOVERNOR SHALL HAVE THE AUTHORITY TO REMOVE ANY MEMBER
10 FOR MISCONDUCT, NEGLECT OF DUTY, OR INCOMPETENCE.

11 (3) THE COMMISSION SHALL ADVISE THE DIVISION AND THE
12 DEPARTMENT OF REVENUE REGARDING CONSERVATION EASEMENTS FOR
13 WHICH A STATE INCOME TAX CREDIT IS CLAIMED PURSUANT TO SECTION
14 39-22-522, C.R.S. AT THE REQUEST OF THE DIVISION OR THE
15 DEPARTMENT, THE COMMISSION SHALL REVIEW CONSERVATION EASEMENT
16 TRANSACTIONS, APPLICATIONS, AND OTHER DOCUMENTS AND ADVISE THE
17 DIVISION AND THE DEPARTMENT REGARDING CONSERVATION VALUES, THE
18 CAPACITY OF CONSERVATION EASEMENT HOLDERS, AND THE INTEGRITY
19 AND ACCURACY OF CONSERVATION EASEMENT TRANSACTIONS RELATED
20 TO THE TAX CREDITS.

21 (4) THE COMMISSION SHALL MEET NOT LESS THAN ONCE EACH
22 QUARTER TO REVIEW APPLICATIONS FOR CONSERVATION EASEMENT
23 HOLDER CERTIFICATION SUBMITTED IN ACCORDANCE WITH SECTION
24 12-61-720 AND TO REVIEW ANY OTHER ISSUES REFERRED TO THE
25 COMMISSION BY THE DIVISION, THE DEPARTMENT OF REVENUE, OR ANY
26 OTHER STATE ENTITY. THE DIVISION SHALL CONVENE THE MEETINGS OF
27 THE COMMISSION AND PROVIDE STAFF SUPPORT AS REQUESTED BY THE

1 COMMISSION. A MAJORITY OF THE MEMBERS OF THE COMMISSION SHALL
2 CONSTITUTE A QUORUM FOR THE TRANSACTION OF ALL BUSINESS, AND
3 ACTIONS OF THE COMMISSION SHALL REQUIRE A VOTE OF A MAJORITY OF
4 SUCH MEMBERS PRESENT IN FAVOR OF THE ACTION TAKEN.

5 (5) ON OR BEFORE JANUARY 1, 2009, THE COMMISSION SHALL
6 ESTABLISH A CONFLICT OF INTEREST POLICY TO ENSURE THAT ANY
7 MEMBER OF THE COMMISSION SHALL BE DISQUALIFIED FROM PERFORMING
8 ANY ACT THAT CONFLICTS WITH A PRIVATE PECUNIARY INTEREST OF THE
9 MEMBER OR FROM PARTICIPATING IN THE DELIBERATION OR DECISION-
10 MAKING PROCESS FOR CERTIFICATION FOR AN APPLICANT REPRESENTED BY
11 SUCH MEMBER.

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

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

22 **SECTION 4.** The introductory portion to 24-33-112 (1) and
23 24-33-112 (1) (b), (1) (d) (II), and (2), Colorado Revised Statutes, are
24 amended, and the said 24-33-112 (1) is further amended BY THE
25 ADDITION OF A NEW PARAGRAPH, to read:

26 **24-33-112. Conservation easement holders - submission of**
27 **information.** (1) Any organization [REDACTED] that accepts a donation of a

1 conservation easement in gross for which a state income tax credit is
2 claimed in accordance with the provisions of section 39-22-522, C.R.S.,
3 shall submit the following information to the department of revenue ~~the~~
4 ~~department of agriculture, and the department of natural resources~~ AND
5 THE DIVISION OF REAL ESTATE IN THE DEPARTMENT OF REGULATORY
6 AGENCIES:

7 (b) The number of acres subject to each conservation easement
8 held in Colorado, EXCEPT PROPERTIES FOR WHICH THE SOLE
9 CONSERVATION PURPOSE IS HISTORIC PRESERVATION;

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

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

13 (II) The organization has adequate resources and policies in place
14 to provide annual monitoring of each conservation easement held by the
15 organization in Colorado, EXCEPT FOR ANY CONSERVATION EASEMENT
16 GRANTED TO A LOCAL GOVERNMENT THAT DID NOT INVOLVE A
17 CHARITABLE DONATION.

18 (2) An organization that accepts a conservation easement in ~~THE~~
19 ~~any~~ calendar year commencing ~~on or after~~ January 1, 2008, shall submit
20 the information required by subsection (1) of this section prior to
21 accepting the easement, but in no event later than April 15 of that
22 calendar year. An organization shall not accept any donation of a
23 conservation easement in gross for which a credit is claimed unless the
24 organization has submitted the information required by this subsection (2)
25 with the department of revenue, the department of agriculture, ~~and the~~
26 department of natural resources. The department of natural resources and
27 the department of agriculture shall make the information available to the

1 public upon request.

2 **SECTION 5.** 24-33-112, Colorado Revised Statutes, is amended
3 BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to
4 read:

5 **24-33-112. Conservation easement holders - submission of**
6 **information.** (3) AN ORGANIZATION THAT ACCEPTS A CONSERVATION
7 EASEMENT IN ANY CALENDAR YEAR COMMENCING ON OR AFTER JANUARY
8 1, 2009, SHALL SUBMIT THE INFORMATION REQUIRED BY SUBSECTION (1)
9 OF THIS SECTION PRIOR TO ACCEPTING THE EASEMENT, BUT IN NO EVENT
10 LATER THAN APRIL 15 OF THAT CALENDAR YEAR. AN ORGANIZATION
11 SHALL NOT ACCEPT ANY DONATION OF A CONSERVATION EASEMENT IN
12 GROSS FOR WHICH A CREDIT IS CLAIMED UNLESS THE ORGANIZATION HAS
13 SUBMITTED THE INFORMATION REQUIRED BY THIS SUBSECTION (3) WITH
14 THE DEPARTMENT OF REVENUE AND THE DIVISION OF REAL ESTATE. THE
15 DEPARTMENT OF REVENUE AND THE DIVISION OF REAL ESTATE SHALL
16 MAKE THE INFORMATION AVAILABLE TO THE PUBLIC UPON REQUEST.

17 (4) FEDERAL AGENCIES THAT ACCEPT CONSERVATION EASEMENTS
18 FOR WHICH A STATE INCOME TAX CREDIT IS CLAIMED ARE EXEMPT FROM
19 THE SUBMISSION OF INFORMATION REQUIRED IN SUBSECTION (1) OF THIS
20 SECTION AND, IN ANY CALENDAR YEAR COMMENCING ON OR AFTER
21 JANUARY 1, 2008, SHALL BE EXEMPT FROM THE FILING REQUIREMENTS OF
22 SUBSECTIONS (2) AND (3) OF THIS SECTION. CONSERVATION EASEMENTS
23 ACCEPTED BY FEDERAL AGENCIES MAY RECEIVE THE STATE TAX CREDIT
24 WITHOUT THE FEDERAL AGENCY HAVING FILED THE INFORMATION
25 REQUIRED BY THIS SECTION.

26 **SECTION 6.** 24-34-104 (49), Colorado Revised Statutes, is
27 amended to read:

1 **24-34-104. General assembly review of regulatory agencies**
2 **and functions for termination, continuation, or reestablishment.**

3 (49) The following agencies, functions, or both, shall terminate on July
4 1, 2018:

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

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

9 **SECTION 7.** 39-21-113, Colorado Revised Statutes, is amended
10 BY THE ADDITION OF A NEW SUBSECTION to read:

11 **39-21-113. Reports and returns.** (16) NOTWITHSTANDING ANY
12 OTHER PROVISION OF THIS SECTION, THE EXECUTIVE DIRECTOR MAY
13 REQUIRE THAT SUCH DETAILED INFORMATION REGARDING A CLAIM FOR A
14 CREDIT FOR THE DONATION OF A CONSERVATION EASEMENT IN GROSS
15 PURSUANT TO SECTION 39-22-522 AND ANY APPRAISAL SUBMITTED IN
16 SUPPORT OF THE CREDIT CLAIMED BE GIVEN TO THE DIVISION OF REAL
17 ESTATE IN THE DEPARTMENT OF REGULATORY AGENCIES AND THE
18 CONSERVATION EASEMENT OVERSIGHT COMMISSION CREATED PURSUANT
19 TO SECTION 12-61-721 (1), C.R.S., AS THE EXECUTIVE DIRECTOR
20 DETERMINES IS NECESSARY IN THE PERFORMANCE OF THE DEPARTMENT'S
21 FUNCTIONS RELATING TO THE CREDIT. THE EXECUTIVE DIRECTOR MAY
22 PROVIDE COPIES OF ANY APPRAISAL AND MAY FILE A COMPLAINT
23 REGARDING ANY APPRAISAL AS AUTHORIZED PURSUANT TO SECTION
24 39-22-522 (3.3). NOTWITHSTANDING THE PROVISIONS OF PART 2 OF
25 ARTICLE 72 OF TITLE 24, C.R.S., IN ORDER TO PROTECT THE CONFIDENTIAL
26 FINANCIAL INFORMATION OF A TAXPAYER, THE EXECUTIVE DIRECTOR
27 SHALL DENY THE RIGHT TO INSPECT ANY INFORMATION OR APPRAISAL

1 REQUIRED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBSECTION
2 (16).

3 **SECTION 8.** 39-22-522 (3) (b), (3) (e), (3) (f) (I), (3.3), and
4 (3.5), Colorado Revised Statutes, are amended, and the said 39-22-522 is
5 further amended BY THE ADDITION OF A NEW SUBSECTION, to
6 read:

7 **39-22-522. Credit against tax - conservation easements.** (3) In
8 order for any taxpayer to qualify for the credit provided for in subsection
9 (2) of this section, the taxpayer shall submit the following in a form
10 approved by the executive director to the department of revenue at the
11 same time as the taxpayer files a return for the taxable year in which the
12 credit is claimed:

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

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

23 ~~(f) A statement specifying the value of the unencumbered property~~
24 ~~and the total value of the conservation easement in gross;~~

25 ~~(H) If the appraisal separately allocates the values of sand and~~
26 ~~gravel, minerals, water, or improvements, a statement of the separate~~
27 ~~value of the sand and gravel, minerals, water, or improvements before and~~

1 after the conservation easement in gross is granted;

2 (HH) ~~An acknowledgment specifying whether a subdivision~~
3 ~~analysis was the primary methodology used in the appraisal; and~~

4 (IV) ~~A statement specifying how the appraiser satisfies qualified~~
5 ~~appraiser and licensing requirements set forth in subsection (3.3) of this~~
6 ~~section; and~~

7 (f) IF THE HOLDER OF THE CONSERVATION EASEMENT IS AN
8 ORGANIZATION TO WHICH THE CERTIFICATION PROGRAM IN SECTION
9 12-61-720, C.R.S., APPLIES, a sworn affidavit from the holder of the
10 conservation easement in gross that includes the following:

11 (I) ~~A copy of the information filed by the holder~~ AN
12 ACKNOWLEDGMENT THAT THE HOLDER HAS FILED THE INFORMATION with
13 the department of revenue ~~the department of agriculture, and the~~
14 ~~department of natural resources~~ AND THE DIVISION OF REAL ESTATE in
15 accordance with section 24-33-112, C.R.S.;

16 (3.3) The appraisal for a conservation easement in gross for which
17 a credit is claimed shall be a qualified appraisal from a qualified
18 appraiser, as those terms are defined in section 170 (f) (11) of the internal
19 revenue code. The appraisal shall be in conformance with the uniform
20 standards for professional appraisal practice promulgated by the appraisal
21 standards board OF THE APPRAISAL FOUNDATION AND ANY OTHER
22 PROVISION OF LAW. The appraiser shall hold a valid license as a certified
23 general appraiser in accordance with the provisions of part 7 of article 61
24 of title 12, C.R.S. THE APPRAISER SHALL ALSO MEET ANY EDUCATION
25 AND EXPERIENCE REQUIREMENTS ESTABLISHED BY THE BOARD OF REAL
26 ESTATE APPRAISERS IN ACCORDANCE WITH SECTION 12-61-719 (7), C.R.S.
27 If there is a final determination, other than by settlement of the taxpayer,

1 that an appraisal submitted in connection with a claim for a credit
2 pursuant to this section is a substantial or gross valuation misstatement as
3 such misstatements are defined in section 1219 of the federal "Pension
4 Protection Act of 2006", Pub.L. 109-280, the department shall submit a
5 complaint regarding the misstatement to the board of real estate
6 appraisers for disciplinary action in accordance with the provisions of part
7 of article 61 of title 12, C.R.S.

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

1 expense of the taxpayer. THE SECOND APPRAISAL SHALL BE CONDUCTED
2 BY A CERTIFIED GENERAL APPRAISER IN GOOD STANDING AND NOT
3 AFFILIATED WITH THE FIRST APPRAISER THAT MEETS QUALIFICATIONS
4 ESTABLISHED BY THE DIVISION OF REAL ESTATE. In the event the
5 executive director rejects, in whole or in part, the appraisal value of the
6 easement, the amount of the credit, or the validity of the credit, the
7 procedures described in sections 39-21-103, 39-21-104, 39-21-104.5, and
8 39-21-105 shall apply.

9 (b) IN CONSULTATION WITH THE DIVISION OF REAL ESTATE AND
10 THE CONSERVATION EASEMENT OVERSIGHT COMMISSION CREATED IN
11 SECTION 12-61-721 (1), C.R.S., THE EXECUTIVE DIRECTOR SHALL DEVELOP
12 AND IMPLEMENT A SEPARATE PROCESS FOR THE REVIEW BY THE
13 DEPARTMENT OF REVENUE OF GROSS CONSERVATION EASEMENTS. THE
14 REVIEW PROCESS SHALL BE CONSISTENT WITH THE STATUTORY
15 OBLIGATIONS OF THE DIVISION AND THE COMMISSION AND SHALL ADDRESS
16 GROSS CONSERVATION EASEMENTS FOR WHICH THE DEPARTMENT OF
17 REVENUE HAS BEEN INFORMED THAT AN AUDIT IS BEING PERFORMED BY
18 THE INTERNAL REVENUE SERVICE. THE EXECUTIVE DIRECTOR SHALL
19 SHARE INFORMATION USED IN THE REVIEW OF GROSS CONSERVATION
20 EASEMENTS WITH THE DIVISION. NOTWITHSTANDING PART 2 OF ARTICLE
21 72 OF TITLE 24, C.R.S., IN ORDER TO PROTECT THE CONFIDENTIAL
22 FINANCIAL INFORMATION OF A TAXPAYER, THE DIVISION AND THE
23 COMMISSION SHALL DENY THE RIGHT TO INSPECT ANY INFORMATION
24 PROVIDED BY THE EXECUTIVE DIRECTOR IN ACCORDANCE WITH THIS
25 PARAGRAPH (b). ON OR BEFORE JANUARY 1, 2009, THE EXECUTIVE
26 DIRECTOR SHALL REPORT TO THE GENERAL ASSEMBLY ON THE STATUS OF
27 THE DEVELOPMENT AND IMPLEMENTATION OF THE PROCESS REQUIRED BY

1 THIS PARAGRAPH (b).

2 (3.7) IF THE GAIN ON THE SALE OF A CONSERVATION EASEMENT IN
3 GROSS FOR WHICH A CREDIT IS CLAIMED PURSUANT TO THIS SECTION
4 WOULD NOT HAVE BEEN A LONG-TERM CAPITAL GAIN, AS DEFINED UNDER
5 THE INTERNAL REVENUE CODE, IF, AT THE TIME OF THE DONATION, THE
6 TAXPAYER HAD SOLD THE CONSERVATION EASEMENT AT ITS FAIR MARKET
7 VALUE, THEN THE VALUE OF THE CONSERVATION EASEMENT IN GROSS FOR
8 THE PURPOSE OF CALCULATING THE AMOUNT OF THE CREDIT SHALL BE
9 REDUCED TO THE TAXPAYER'S TAX BASIS IN THE CONSERVATION
10 EASEMENT IN GROSS. THE TAX BASIS OF A TAXPAYER IN A CONSERVATION
11 EASEMENT SHALL BE DETERMINED AND ALLOCATED PURSUANT TO
12 SECTIONS 170 (e) AND 170 (h) OF THE INTERNAL REVENUE CODE, AS
13 AMENDED, AND ANY FEDERAL REGULATIONS PROMULGATED IN
14 CONNECTION WITH SUCH SECTIONS. THIS SUBSECTION (3.7) SHALL BE
15 APPLIED IN A MANNER THAT IS CONSISTENT WITH THE TAX TREATMENT OF
16 QUALIFIED CONSERVATION CONTRIBUTIONS UNDER THE INTERNAL
17 REVENUE CODE AND THE FEDERAL REGULATIONS PROMULGATED UNDER
18 THE INTERNAL REVENUE CODE.

19 **SECTION 9. Appropriation - adjustments to the 2008 long**
20 **bill.** (1) In addition to any other appropriation, there is hereby
21 appropriated, out of any moneys in the conservation easement appraisal
22 review fund created in section 12-61-719 (8), Colorado Revised Statutes,
23 not otherwise appropriated, to the department of regulatory agencies, for
24 allocation to the division of real estate, to review conservation easement
25 appraisals, for the fiscal year beginning July 1, 2008, the sum of two
26 hundred thirty-six thousand nine hundred thirty-seven dollars (\$236,937)
27 and 1.8 FTE, or so much thereof as may be necessary, for the

1 implementation of this act.

2 (2) In addition to any other appropriation, there is hereby
3 appropriated, out of any moneys in the conservation easement holder
4 certification fund created in section 12-61-720 (3), Colorado Revised
5 Statutes, not otherwise appropriated, to the department of regulatory
6 agencies, for allocation to the division of real estate, to implement and
7 administer a conservation easement holder certification program, for the
8 fiscal year beginning July 1, 2008, the sum of two hundred thirty-six
9 thousand nine hundred thirty-seven dollars (\$236,937) and 1.8 FTE, or so
10 much thereof as may be necessary, for the implementation of this act.

11 (3) In addition to any other appropriation, there is hereby
12 appropriated, out of any moneys in the general fund not otherwise
13 appropriated, to the department of revenue, for allocation to the taxation
14 business group division, for the review of gross conservation easements,
15 for the fiscal year beginning July 1, 2008, the sum of ninety-two thousand
16 eight hundred eighteen dollars (\$92,818) and 2.0 FTE, or so much thereof
17 as may be necessary, for the implementation of this act.

18 (4) For the implementation of this act, the general fund
19 appropriation to the controlled maintenance trust fund made in section 23
20 of the annual general appropriation act, for the fiscal year beginning July
21 1, 2008, shall be decreased by ninety-two thousand eight hundred
22 eighteen dollars (\$92,818);

23 **SECTION 10. Accountability.** Two years after this act becomes
24 law and in accordance with section 2-2-1201, Colorado Revised Statutes,
25 the legislative service agencies of the Colorado General Assembly shall
26 conduct a post-enactment review of the implementation of this act
27 utilizing the information contained in the legislative declaration set forth

1 in section 1 of this act.

2 **SECTION 11. Effective date.** This act shall take effect July 1,
3 2008.

4 **SECTION 12. Safety clause.** The general assembly hereby finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, and safety.