

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

March 19, 2008
Date

Committee on Finance.

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

HB08-1353 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, page 3, after line 1, insert the following:

2 "SECTION 1. Legislative declaration. (1) The general
3 assembly 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
13 post-enactment review of this act two years after its enactment in
14 accordance with section 2-2-1201, C.R.S., and report their findings
15 relating to the implementation of this act to the general assembly. It is the
16 intent of the general assembly that desired results and benefits of this act
17 are as follows:

18 (a) To address abuses of the conservation easement tax credit
19 program while continuing to allow legitimate participants and the state of

1 Colorado to continue to benefit from the program;

2 (b) To have the division of real estate review all appraisals of
3 conservation easements and affidavits of appraisers submitted to the
4 division and maintain the information in an electronic database;

5 (c) To have the division of real estate investigate the activities of
6 appraisers of conservation easements to ensure that the appraisers are
7 complying with the uniform standards of professional appraisal practice
8 and other requirements of law;

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

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

17 (f) To ensure that the division of real estate and the department of
18 revenue are sharing relevant information concerning conservation
19 easement appraisals in order to ensure compliance with accepted
20 appraisal practices and other provisions of law."

21 Renumber succeeding sections accordingly.

22 Page 4, line 26, after "PROPERTY,", insert "OF WHICH THE VALUE MAY BE
23 INCREASED BY THE DONATION OF THE PROPERTY ENCUMBERED BY THE
24 APPRAISED CONSERVATION EASEMENT,".

25 Page 5, line 22, after "INFORMATION", insert "SUBMITTED AS PART OF THE
26 AFFIDAVIT".

27 Page 7, line 22, strike "C.R.S." and substitute "C.R.S.; EXCEPT THAT IN NO
28 EVENT SHALL THE FEE EXCEED THE AMOUNT OF SIX HUNDRED DOLLARS
29 FOR EACH APPRAISAL SUBMITTED. ON OR BEFORE JANUARY 1, 2009, AND
30 ON OR BEFORE EACH JANUARY 1 THEREAFTER, THE DIVISION SHALL
31 CERTIFY TO THE GENERAL ASSEMBLY THE AMOUNT OF THE FEE
32 PRESCRIBED BY THE DIVISION PURSUANT TO THIS SUBSECTION (8).".

1 Page 8, line 7, after "APPLICANTS", insert "AS DEFINED BY THE RULES OF
2 THE COMMISSION";

3 line 15, strike "SHALL" and substitute "MAY";

4 line 18, after "STEWARDSHIP", insert "PRACTICES AND";

5 strike line 21 and substitute the following:

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

7 line 22, strike "ETHICS;" and substitute "ETHICS REGARDING CONFLICTS OF
8 INTEREST AND TRANSACTIONS WITH RELATED PARTIES AS DESCRIBED IN
9 SECTION 267 (b) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986",
10 AS AMENDED, DONORS, BOARD MEMBERS, AND INSIDERS. FOR PURPOSES
11 OF THIS PARAGRAPH (d), "INSIDERS" MEANS BOARD AND STAFF MEMBERS,
12 SUBSTANTIAL CONTRIBUTORS, PARTIES RELATED TO THOSE ABOVE, THOSE
13 WHO HAVE AN ABILITY TO INFLUENCE DECISIONS OF THE ORGANIZATION,
14 AND THOSE WITH ACCESS TO INFORMATION NOT AVAILABLE TO THE
15 GENERAL PUBLIC."

16 Page 9, line 14, strike "C.R.S." and substitute "C.R.S.; EXCEPT THAT IN NO
17 EVENT SHALL THE FEE EXCEED THE AMOUNT OF FIVE THOUSAND EIGHT
18 HUNDRED TEN DOLLARS FOR EACH APPLICATION SUBMITTED. ON OR
19 BEFORE JANUARY 1, 2009, AND ON OR BEFORE EACH JANUARY 1
20 THEREAFTER, THE DIVISION SHALL CERTIFY TO THE GENERAL ASSEMBLY
21 THE AMOUNT OF THE FEE PRESCRIBED BY THE DIVISION PURSUANT TO THIS
22 SUBSECTION (3)."

23 Page 10, line 24, strike "LAND TRUSTS" and substitute "ENTITIES
24 DESCRIBED IN PARAGRAPH (a) OF SUBSECTION (4) OF THIS SECTION";

25 line 25, strike "GOVERNMENTAL,";

26 line 26, strike "HISTORIC," and substitute "ENTITIES DESCRIBED IN
27 PARAGRAPHS (b) AND (c) OF SUBSECTION (4) OF THIS SECTION,".

28 Page 15, line 13, strike "(1) (d) (II)" and substitute "(1) (b), (1) (d) (II),";

29 line 17, after "organization", insert "EXCEPT A FEDERAL AGENCY,";

1 after line 23, insert the following:

2 "(b) The number of acres subject to each conservation easement
3 held in Colorado, EXCEPT PROPERTIES FOR WHICH THE SOLE
4 CONSERVATION PURPOSE IS HISTORICAL SIGNIFICANCE;"

5 Page 16, line 5, after "in", insert "THE";

6 line 12, strike "and" and substitute "and";

7 line 13, strike "resources, AND THE DIVISION OF REAL ESTATE." and
8 substitute "resources."

9 Page 20, line 10, after "(3.5)", insert "(a)".

10 Page 21, line 2, after "APPRAISER", insert "IN GOOD STANDING AND NOT
11 AFFILIATED WITH THE FIRST APPRAISER";

12 after line 6, insert the following:

13 "(b) THE EXECUTIVE DIRECTOR SHALL DEVELOP AND IMPLEMENT
14 A SEPARATE PROCESS FOR THE REVIEW OF GROSS CONSERVATION
15 EASEMENTS IN CONSULTATION WITH THE DIVISION OF REAL ESTATE AND
16 THE CONSERVATION EASEMENT OVERSIGHT COMMISSION CREATED IN
17 SECTION 12-61-721 (1), C.R.S. THE REVIEW PROCESS SHALL BE
18 CONSISTENT WITH THE STATUTORY OBLIGATIONS OF THE DIVISION AND
19 THE COMMISSION AND SHALL INCLUDE THE REVIEW OF GROSS
20 CONSERVATION EASEMENTS FOR WHICH THE DEPARTMENT OF REVENUE
21 HAS BEEN INFORMED THAT AN AUDIT IS BEING PERFORMED BY THE
22 INTERNAL REVENUE SERVICE. THE EXECUTIVE DIRECTOR SHALL HAVE THE
23 AUTHORITY TO SHARE INFORMATION USED IN THE REVIEW OF GROSS
24 CONSERVATION EASEMENTS WITH THE DIVISION OF REAL ESTATE. ON OR
25 BEFORE JANUARY 1, 2009, THE EXECUTIVE DIRECTOR SHALL REPORT TO
26 THE GENERAL ASSEMBLY ON THE STATUS OF THE DEVELOPMENT AND
27 IMPLEMENTATION OF THE PROCESS REQUIRED BY THIS PARAGRAPH (b).";

28 after line 23, insert the following:

29 "**SECTION 9. Accountability.** Two years after this act becomes
30 law and in accordance with section 2-2-1201, Colorado Revised Statutes,
31 the legislative service agencies of the Colorado General Assembly shall

1 conduct a post-enactment review of the implementation of this act
2 utilizing the information contained in the legislative declaration set forth
3 in section 1 of this act."

4 Renumber succeeding sections accordingly.

5 Page 1, line 104, strike "STATE." and substitute "STATE, AND REQUIRING
6 A POST-ENACTMENT REVIEW OF THE IMPLEMENTATION OF THIS ACT.".

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