

HB1197_L.009

HOUSE COMMITTEE OF REFERENCE REPORT

 Chairman of Committee

 Date
Committee on Finance.

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

HB10-1197 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 "SECTION 1. 39-1-102 (1.6) (a) (III), Colorado Revised Statutes,
4 is amended to read:

5 **39-1-102. Definitions.** As used in articles 1 to 13 of this title,
6 unless the context otherwise requires:

7 (1.6) (a) "Agricultural land", whether used by the owner of the
8 land or a lessee, means one of the following:

9 (III) A parcel of land that consists of at least eighty acres, or of
10 less than eighty acres if such parcel does not contain any residential
11 improvements, and that is subject to a perpetual conservation easement,
12 if such land was classified by the assessor as agricultural land under
13 subparagraph (I) or (II) of this paragraph (a) at the time such easement
14 was granted, if the grant of the easement was to a qualified organization,
15 if the easement was granted exclusively for conservation purposes, and
16 if all current and contemplated future uses of the land are described in the
17 conservation easement. "Agricultural land" under this subparagraph (III)
18 does not include any portion of such land that is actually used for
19 nonagricultural commercial or NONAGRICULTURAL residential purposes.

20 **SECTION 2.** 39-1-103 (5) (a), Colorado Revised Statutes, is
21 amended to read:



1 **39-1-103. Actual value determined - when.** (5) (a) All real and
2 personal property shall be appraised and the actual value thereof for
3 property tax purposes determined by the assessor of the county wherein
4 such property is located. The actual value of such property, other than
5 agricultural lands exclusive of building improvements thereon and other
6 than residential real property and other than producing mines and lands
7 or leaseholds producing oil or gas, shall be that value determined by
8 appropriate consideration of the cost approach, the market approach, and
9 the income approach to appraisal. The assessor shall consider and
10 document all elements of such approaches that are applicable prior to a
11 determination of actual value. Despite any orders of the state board of
12 equalization, no assessor shall arbitrarily increase the valuations for
13 assessment of all parcels represented within the abstract of a county or
14 within a class or subclass of parcels on that abstract by a common
15 multiple in response to the order of said board. If an assessor is required,
16 pursuant to the order of said board, to increase or decrease valuations for
17 assessment, such changes shall be made only upon individual valuations
18 for assessment of each and every parcel, using each of the approaches to
19 appraisal specified in this paragraph (a), if applicable. The actual value
20 of agricultural lands, exclusive of building improvements thereon, shall
21 be determined by consideration of the earning or productive capacity of
22 such lands during a reasonable period of time, capitalized at a rate of
23 thirteen percent. Land that is valued as agricultural and that becomes
24 subject to a perpetual conservation easement shall continue to be valued
25 as agricultural notwithstanding its dedication for conservation purposes;
26 except that, if any portion of such land is actually used for nonagricultural
27 commercial or NONAGRICULTURAL residential purposes, that portion shall
28 be valued according to such use. NOTHING IN THIS SUBSECTION (5) SHALL
29 BE CONSTRUED TO REQUIRE OR PERMIT THE RECLASSIFICATION OF
30 AGRICULTURAL LAND OR IMPROVEMENTS, INCLUDING RESIDENTIAL
31 PROPERTY, DUE SOLELY TO SUBJECTING THE LAND TO A PERPETUAL
32 CONSERVATION EASEMENT. The actual value of residential real property
33 shall be determined solely by consideration of the market approach to
34 appraisal. A gross rent multiplier may be considered as a unit of
35 comparison within the market approach to appraisal. The valuation for
36 assessment of producing mines and of lands or leaseholds producing oil
37 or gas shall be determined pursuant to articles 6 and 7 of this title.

38 **SECTION 3.** 39-22-522, Colorado Revised Statutes, is amended
39 BY THE ADDITION OF A NEW SUBSECTION to read:



1 **39-22-522. Credit against tax - conservation easements.**
2 (2.5) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, FOR
3 INCOME TAX YEARS COMMENCING DURING THE 2011, 2012, AND 2013
4 CALENDAR YEARS, A TAXPAYER CONVEYING A CONSERVATION EASEMENT
5 IN 2011, 2012, OR 2013 AND CLAIMING A CREDIT PURSUANT TO THIS
6 SECTION SHALL, IN ADDITION TO ANY OTHER REQUIREMENTS OF THIS
7 SECTION, SUBMIT A CLAIM FOR THE CREDIT TO THE DIVISION OF REAL
8 ESTATE IN THE DEPARTMENT OF REGULATORY AGENCIES. THE DIVISION
9 SHALL ISSUE A CERTIFICATE FOR THE CLAIMS RECEIVED IN THE ORDER
10 SUBMITTED. AFTER CERTIFICATES HAVE BEEN ISSUED FOR CREDITS THAT
11 EXCEED AN AGGREGATE OF TWENTY-SIX MILLION DOLLARS FOR ALL
12 TAXPAYERS FOR INCOME TAX YEARS COMMENCING IN EACH OF THE 2011,
13 2012, AND 2013 CALENDAR YEARS, ANY CLAIMS THAT EXCEED THE
14 AMOUNT ALLOWED FOR A SPECIFIED CALENDAR YEAR SHALL BE PLACED
15 ON A WAIT LIST IN THE ORDER SUBMITTED AND A CERTIFICATE SHALL BE
16 ISSUED FOR USE OF THE CREDIT IN 2012 OR 2013. THE DIVISION SHALL NOT
17 ISSUE CREDIT CERTIFICATES THAT EXCEED TWENTY-SIX MILLION DOLLARS
18 FOR EACH INCOME TAX YEAR COMMENCING IN THE 2011, 2012, AND 2013
19 CALENDAR YEARS. NO CLAIM FOR A CREDIT SHALL BE ALLOWED FOR ANY
20 INCOME TAX YEAR COMMENCING DURING THE 2011, 2012, OR 2013
21 CALENDAR YEARS UNLESS A CERTIFICATE HAS BEEN ISSUED BY THE
22 DIVISION. THE RIGHT TO CLAIM THE CREDIT SHALL BE VESTED IN THE
23 TAXPAYER AT THE TIME A CREDIT CERTIFICATE IS ISSUED. THE DIVISION
24 MAY PROMULGATE RULES IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24,
25 C.R.S., FOR THE ISSUANCE OF CERTIFICATES IN ACCORDANCE WITH THIS
26 SUBSECTION (2.5).

27 **SECTION 4. Act subject to petition - effective date.** This act
28 shall take effect at 12:01 a.m. on the day following the expiration of the
29 ninety-day period after final adjournment of the general assembly (August
30 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a
31 referendum petition is filed pursuant to section 1 (3) of article V of the
32 state constitution against this act or an item, section, or part of this act
33 within such period, then the act, item, section, or part shall not take effect
34 unless approved by the people at the general election to be held in
35 November 2010 and shall take effect on the date of the official
36 declaration of the vote thereon by the governor."

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