

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

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, AND REQUIRING A POST-ENACTMENT**
105 **REVIEW OF THE IMPLEMENTATION OF THIS ACT.**

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

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.

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
13 post-enactment review of this act two years after its enactment in

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

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

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

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

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

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

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

27 **SECTION 2.** 12-61-702, Colorado Revised Statutes, is amended

1 BY THE ADDITION OF A NEW SUBSECTION to read:

2 **12-61-702. Definitions.** As used in this part 7, unless the context
3 otherwise requires:

4 (2.3) "COMMISSION" MEANS THE CONSERVATION EASEMENT
5 OVERSIGHT COMMISSION CREATED IN SECTION 12-61-721 (1).

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

9 **12-61-719. Conservation easement appraisals.** (1) ANY
10 APPRAISER WHO CONDUCTS AN APPRAISAL FOR A CONSERVATION
11 EASEMENT SHALL SUBMIT A COPY OF THE COMPLETED APPRAISAL TO THE
12 DIVISION WITHIN THIRTY DAYS FOLLOWING THE COMPLETION OF THE
13 APPRAISAL. FOR PURPOSES OF THIS SECTION, "COMPLETION OF THE
14 APPRAISAL" SHALL MEAN THAT THE CERTIFICATION PAGE, AS DEFINED IN
15 THE UNIFORM STANDARDS FOR PROFESSIONAL APPRAISAL PRACTICE,
16 PROMULGATED BY THE APPRAISAL STANDARDS BOARD, SHALL HAVE BEEN
17 SIGNED BY THE APPRAISER AND THE APPRAISAL HAS BEEN DELIVERED TO
18 THE CLIENT OF THE APPRAISER. THE APPRAISAL SHALL BE ACCOMPANIED
19 BY AN AFFIDAVIT FROM THE APPRAISER THAT INCLUDES, BUT IS NOT
20 LIMITED TO, THE FOLLOWING:

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

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

1 OR IMPROVEMENTS BEFORE AND AFTER THE CONSERVATION EASEMENT IN
2 GROSS IS GRANTED;

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

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

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

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

23 AND

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

26 (2) AN AFFIDAVIT SUBMITTED IN ACCORDANCE WITH THE
27 PROVISIONS OF THIS SECTION SHALL BE IN A FORM APPROVED BY THE

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

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

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

26 (5) IF THE BOARD DETERMINES THAT A MATERIAL VIOLATION OF
27 THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE OR A

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

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

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

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

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

14 **12-61-720. Certification of conservation easement holders -**
15 **rules - repeal.** (1) THE DIVISION SHALL, IN CONSULTATION WITH THE
16 COMMISSION CREATED IN SECTION 12-61-721, ESTABLISH AND ADMINISTER
17 A CERTIFICATION PROGRAM FOR QUALIFIED ORGANIZATIONS UNDER
18 SECTION 170 (h) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986",
19 AS AMENDED, THAT HOLD CONSERVATION EASEMENTS FOR WHICH A TAX
20 CREDIT IS CLAIMED PURSUANT TO SECTION 39-22-522, C.R.S. THE
21 PURPOSE OF THE PROGRAM SHALL BE TO:

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

25 (b) IDENTIFY FRAUDULENT OR UNQUALIFIED APPLICANTS AS
26 DEFINED BY THE RULES OF THE COMMISSION TO PREVENT THEM FROM
27 BECOMING CERTIFIED BY THE PROGRAM.

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

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

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

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

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

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.; EXCEPT THAT IN NO EVENT SHALL THE
15 FEE EXCEED THE AMOUNT OF FIVE THOUSAND EIGHT HUNDRED TEN
16 DOLLARS FOR EACH APPLICATION SUBMITTED. ON OR BEFORE JANUARY 1,
17 2009, AND ON OR BEFORE EACH JANUARY 1 THEREAFTER, THE DIVISION
18 SHALL CERTIFY TO THE GENERAL ASSEMBLY THE AMOUNT OF THE FEE
19 PRESCRIBED BY THE DIVISION PURSUANT TO THIS SUBSECTION (3).

20 (4) THE CERTIFICATION PROGRAM SHALL APPLY TO:

21 (a) NONPROFIT ENTITIES HOLDING EASEMENTS ON PROPERTY WITH
22 CONSERVATION VALUES;

23 (b) NONPROFIT ENTITIES HOLDING EASEMENTS ON PROPERTIES OF
24 HISTORICAL SIGNIFICANCE; AND

25 (c) THE STATE AND ANY MUNICIPALITY, COUNTY, CITY AND
26 COUNTY, SPECIAL DISTRICT, OR OTHER POLITICAL SUBDIVISION OF THE
27 STATE THAT HOLDS AN EASEMENT.

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

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

24 (7) THE DIVISION SHALL IMPLEMENT THE CERTIFICATION PROGRAM
25 IN A MANNER THAT EITHER COMMENCES ACCEPTING APPLICATIONS FOR
26 CERTIFICATION:

27 (a) AT THE SAME TIME FOR ALL TYPES OF ENTITIES THAT HOLD

1 CONSERVATION EASEMENTS; OR

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

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

18 (9) CERTIFICATION GRANTED IN ACCORDANCE WITH THE
19 PROVISIONS OF THIS SECTION SHALL BE EFFECTIVE FOR A THREE-YEAR
20 PERIOD.

21 (10) THE DIVISION SHALL MAINTAIN AND UPDATE AN ONLINE LIST
22 THAT CAN BE ACCESSED BY THE PUBLIC OF THE ORGANIZATIONS THAT
23 HAVE APPLIED FOR CERTIFICATION AND WHETHER EACH HAS BEEN
24 CERTIFIED, REJECTED FOR CERTIFICATION, OR HAD ITS CERTIFICATION
25 REVOKED OR SUSPENDED IN ACCORDANCE WITH THE PROVISIONS OF THIS
26 SECTION.

27 (11) THE DIVISION SHALL HAVE THE AUTHORITY TO INVESTIGATE

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

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

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

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

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

17 **12-61-721. Conservation easement oversight commission -**
18 **created - repeal.** (1) THERE IS HEREBY CREATED IN THE DIVISION A
19 CONSERVATION EASEMENT OVERSIGHT COMMISSION CONSISTING OF NINE
20 MEMBERS AS FOLLOWS:

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

26 (b) ONE MEMBER REPRESENTING THE DEPARTMENT OF NATURAL
27 RESOURCES SHALL BE APPOINTED BY AND SERVE AT THE PLEASURE OF THE

1 EXECUTIVE DIRECTOR OF THE DEPARTMENT;

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

5 (d) SIX MEMBERS APPOINTED BY THE GOVERNOR AS FOLLOWS WITH
6 AT LEAST ONE MEMBER WITH THE FOLLOWING QUALIFICATIONS OR
7 REPRESENTING THE FOLLOWING INTERESTS:

8 (I) A LOCAL LAND TRUST;

9 (II) A STATEWIDE OR NATIONAL LAND TRUST;

10 (III) A LOCAL GOVERNMENT OPEN SPACE OR LAND CONSERVATION
11 AGENCY;

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

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

18 (VI) A LANDOWNER THAT HAS DONATED A CONSERVATION
19 EASEMENT IN COLORADO.

20 (2) IN MAKING APPOINTMENTS TO THE COMMISSION, THE
21 GOVERNOR SHALL CONSULT WITH THE THREE MEMBERS OF THE
22 COMMISSION APPOINTED PURSUANT TO PARAGRAPHS (a) TO (c) OF
23 SUBSECTION (1) OF THIS SECTION AND WITH APPROPRIATE ORGANIZATIONS
24 REPRESENTING THE PARTICULAR INTEREST OR AREA OF EXPERTISE THAT
25 THE APPOINTEE REPRESENTS. NOT MORE THAN THREE OF THE GOVERNOR'S
26 APPOINTEES SERVING AT THE SAME TIME SHALL BE FROM THE SAME
27 POLITICAL PARTY. IN MAKING THE INITIAL APPOINTMENTS, THE GOVERNOR

1 SHALL APPOINT THREE MEMBERS FOR TERMS OF TWO YEARS. ALL OTHER
2 APPOINTMENTS BY THE GOVERNOR SHALL BE FOR A TERM OF THREE YEARS.
3 NO MEMBER SHALL SERVE MORE THAN TWO CONSECUTIVE TERMS. IN THE
4 EVENT OF A VACANCY BY DEATH, RESIGNATION, REMOVAL, OR OTHERWISE,
5 THE GOVERNOR SHALL APPOINT A MEMBER TO FILL THE UNEXPIRED TERM.
6 THE GOVERNOR SHALL HAVE THE AUTHORITY TO REMOVE ANY MEMBER
7 FOR MISCONDUCT, NEGLECT OF DUTY, OR INCOMPETENCE.

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

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

1 SUCH MEMBERS PRESENT IN FAVOR OF THE ACTION TAKEN.

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

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

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

19 **SECTION 4.** The introductory portion to 24-33-112 (1) and
20 24-33-112 (1) (b), (1) (d) (II), and (2), Colorado Revised Statutes, are
21 amended, and the said 24-33-112 (1) is further amended BY THE
22 ADDITION OF A NEW PARAGRAPH, to read:

23 **24-33-112. Conservation easement holders - submission of**
24 **information.** (1) Any organization EXCEPT A FEDERAL AGENCY, that
25 accepts a donation of a conservation easement in gross for which a state
26 income tax credit is claimed in accordance with the provisions of section
27 39-22-522, C.R.S., shall submit the following information to the

1 department of revenue ~~the department of agriculture, and the department~~
2 ~~of natural resources~~ AND THE DIVISION OF REAL ESTATE IN THE
3 DEPARTMENT OF REGULATORY AGENCIES:

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

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

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

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

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

26 **SECTION 5.** 24-33-112, Colorado Revised Statutes, is amended
27 BY THE ADDITION OF A NEW SUBSECTION to read:

1 **24-33-112. Conservation easement holders - submission of**
2 **information.** (3) AN ORGANIZATION THAT ACCEPTS A CONSERVATION
3 EASEMENT IN ANY CALENDAR YEAR COMMENCING ON OR AFTER JANUARY
4 1, 2009, SHALL SUBMIT THE INFORMATION REQUIRED BY SUBSECTION (1)
5 OF THIS SECTION PRIOR TO ACCEPTING THE EASEMENT, BUT IN NO EVENT
6 LATER THAN APRIL 15 OF THAT CALENDAR YEAR. AN ORGANIZATION
7 SHALL NOT ACCEPT ANY DONATION OF A CONSERVATION EASEMENT IN
8 GROSS FOR WHICH A CREDIT IS CLAIMED UNLESS THE ORGANIZATION HAS
9 SUBMITTED THE INFORMATION REQUIRED BY THIS SUBSECTION (3) WITH
10 THE DEPARTMENT OF REVENUE AND THE DIVISION OF REAL ESTATE. THE
11 DEPARTMENT OF REVENUE AND THE DIVISION OF REAL ESTATE SHALL
12 MAKE THE INFORMATION AVAILABLE TO THE PUBLIC UPON REQUEST.

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

15 **24-34-104. General assembly review of regulatory agencies**
16 **and functions for termination, continuation, or reestablishment.**

17 (49) The following agencies, functions, or both, shall terminate on July
18 1, 2018:

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

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

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

25 **39-21-113. Reports and returns.** (16) NOTWITHSTANDING ANY
26 OTHER PROVISION OF THIS SECTION, THE EXECUTIVE DIRECTOR MAY
27 REQUIRE THAT SUCH DETAILED INFORMATION REGARDING A CLAIM FOR A

1 CREDIT FOR THE DONATION OF A CONSERVATION EASEMENT IN GROSS
2 PURSUANT TO SECTION 39-22-522 AND ANY APPRAISAL SUBMITTED IN
3 SUPPORT OF THE CREDIT CLAIMED BE GIVEN TO THE DIVISION OF REAL
4 ESTATE IN THE DEPARTMENT OF REGULATORY AGENCIES AND THE
5 CONSERVATION EASEMENT OVERSIGHT COMMISSION CREATED PURSUANT
6 TO SECTION 12-61-721 (1), C.R.S., AS THE EXECUTIVE DIRECTOR
7 DETERMINES IS NECESSARY IN THE PERFORMANCE OF THE DEPARTMENT'S
8 FUNCTIONS RELATING TO THE CREDIT. THE EXECUTIVE DIRECTOR MAY
9 PROVIDE COPIES OF ANY APPRAISAL AND MAY FILE A COMPLAINT
10 REGARDING ANY APPRAISAL AS AUTHORIZED PURSUANT TO SECTION
11 39-22-522 (3.3). NOTWITHSTANDING THE PROVISIONS OF PART 2 OF
12 ARTICLE 72 OF TITLE 24, C.R.S., IN ORDER TO PROTECT THE CONFIDENTIAL
13 FINANCIAL INFORMATION OF A TAXPAYER, THE EXECUTIVE DIRECTOR
14 SHALL DENY THE RIGHT TO INSPECT ANY INFORMATION OR APPRAISAL
15 REQUIRED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBSECTION
16 (16).

17 **SECTION 8.** 39-22-522 (3) (b), (3) (e), (3) (f) (I), (3.3), and
18 (3.5), Colorado Revised Statutes, are amended, and the said 39-22-522 is
19 further amended BY THE ADDITION OF A NEW SUBSECTION, to
20 read:

21 **39-22-522. Credit against tax - conservation easements.** (3) In
22 order for any taxpayer to qualify for the credit provided for in subsection
23 (2) of this section, the taxpayer shall submit the following in a form
24 approved by the executive director to the department of revenue at the
25 same time as the taxpayer files a return for the taxable year in which the
26 credit is claimed:

27 (b) A statement that reflects the information included in the

1 noncash charitable contributions form used to claim a deduction for a
2 conservation easement in gross on a federal income tax return AND
3 WHETHER THE DONATION WAS MADE IN ORDER TO GET A PERMIT OR OTHER
4 APPROVAL FROM A LOCAL OR OTHER GOVERNING AUTHORITY;

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

10 ~~(I) A statement specifying the value of the unencumbered property~~
11 ~~and the total value of the conservation easement in gross;~~

12 ~~(II) If the appraisal separately allocates the values of sand and~~
13 ~~gravel, minerals, water, or improvements, a statement of the separate~~
14 ~~value of the sand and gravel, minerals, water, or improvements before and~~
15 ~~after the conservation easement in gross is granted;~~

16 ~~(III) An acknowledgment specifying whether a subdivision~~
17 ~~analysis was the primary methodology used in the appraisal; and~~

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

21 (f) A sworn affidavit from the holder of the conservation easement
22 in gross that includes the following:

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

1 (3.3) The appraisal for a conservation easement in gross for which
2 a credit is claimed shall be a qualified appraisal from a qualified
3 appraiser, as those terms are defined in section 170 (f) (11) of the internal
4 revenue code. The appraisal shall be in conformance with the uniform
5 standards for professional appraisal practice promulgated by the appraisal
6 standards board OF THE APPRAISAL FOUNDATION AND ANY OTHER
7 PROVISION OF LAW. The appraiser shall hold a valid license as a certified
8 general appraiser in accordance with the provisions of part 7 of article 61
9 of title 12, C.R.S. THE APPRAISER SHALL ALSO MEET ANY EDUCATION
10 AND EXPERIENCE REQUIREMENTS ESTABLISHED BY THE BOARD OF REAL
11 ESTATE APPRAISERS IN ACCORDANCE WITH SECTION 12-61-719 (7), C.R.S.
12 If there is a final determination, other than by settlement of the taxpayer,
13 that an appraisal submitted in connection with a claim for a credit
14 pursuant to this section is a substantial or gross valuation misstatement as
15 such misstatements are defined in section 1219 of the federal "Pension
16 Protection Act of 2006", Pub.L. 109-280, the department shall submit a
17 complaint regarding the misstatement to the board of real estate
18 appraisers for disciplinary action in accordance with the provisions of part
19 7 of article 61 of title 12, C.R.S.

20 (3.5) (a) The executive director shall have the authority, pursuant
21 to subsection (8) of this section, to require additional information from
22 the taxpayer or transferee regarding the appraisal value of the easement,
23 the amount of the credit, and the validity of the credit. In resolving
24 disputes regarding the validity or the amount of a credit allowed pursuant
25 to subsection (2) of this section, including the value of the conservation
26 easement for which the credit is granted, the executive director shall have
27 the authority, for good cause shown AND IN CONSULTATION WITH THE

1 DIVISION OF REAL ESTATE AND THE CONSERVATION EASEMENT OVERSIGHT
2 COMMISSION CREATED IN SECTION 12-61-721 (1), C.R.S., to review and
3 accept or reject, in whole or in part, the appraisal value of the easement,
4 the amount of the credit, and the validity of the credit based upon the
5 internal revenue code and federal regulations in effect at the time of the
6 donation. If the executive director reasonably believes that the appraisal
7 represents a gross valuation misstatement, OR IF THE EXECUTIVE DIRECTOR
8 RECEIVES NOTICE OF SUCH A VALUATION MISSTATEMENT FROM THE
9 DIVISION OF REAL ESTATE, the executive director shall have the authority
10 to require the taxpayer to provide a second appraisal at the expense of the
11 taxpayer. THE SECOND APPRAISAL SHALL BE CONDUCTED BY A CERTIFIED
12 GENERAL APPRAISER IN GOOD STANDING AND NOT AFFILIATED WITH THE
13 FIRST APPRAISER THAT MEETS QUALIFICATIONS ESTABLISHED BY THE
14 DIVISION OF REAL ESTATE. In the event the executive director rejects, in
15 whole or in part, the appraisal value of the easement, the amount of the
16 credit, or the validity of the credit, the procedures described in sections
17 39-21-103, 39-21-104, 39-21-104.5, and 39-21-105 shall apply.

18 (b) THE EXECUTIVE DIRECTOR SHALL DEVELOP AND IMPLEMENT A
19 SEPARATE PROCESS FOR THE REVIEW OF GROSS CONSERVATION
20 EASEMENTS IN CONSULTATION WITH THE DIVISION OF REAL ESTATE AND
21 THE CONSERVATION EASEMENT OVERSIGHT COMMISSION CREATED IN
22 SECTION 12-61-721 (1), C.R.S. THE REVIEW PROCESS SHALL BE
23 CONSISTENT WITH THE STATUTORY OBLIGATIONS OF THE DIVISION AND
24 THE COMMISSION AND SHALL INCLUDE THE REVIEW OF GROSS
25 CONSERVATION EASEMENTS FOR WHICH THE DEPARTMENT OF REVENUE
26 HAS BEEN INFORMED THAT AN AUDIT IS BEING PERFORMED BY THE
27 INTERNAL REVENUE SERVICE. THE EXECUTIVE DIRECTOR SHALL HAVE THE

1 AUTHORITY TO SHARE INFORMATION USED IN THE REVIEW OF GROSS
2 CONSERVATION EASEMENTS WITH THE DIVISION OF REAL ESTATE. ON OR
3 BEFORE JANUARY 1, 2009, THE EXECUTIVE DIRECTOR SHALL REPORT TO
4 THE GENERAL ASSEMBLY ON THE STATUS OF THE DEVELOPMENT AND
5 IMPLEMENTATION OF THE PROCESS REQUIRED BY THIS PARAGRAPH (b).

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

23 **SECTION 9. 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 10. Effective date.** This act shall take effect July 1,
3 2008.

4 **SECTION 11. 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.