

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 13-0558.02 Gregg Fraser x4325

SENATE BILL 13-221

SENATE SPONSORSHIP

King, Guzman, Tochtrop

HOUSE SPONSORSHIP

Ryden, Sonnenberg, Williams

Senate Committees

Finance
Appropriations

House Committees

Finance
Appropriations

A BILL FOR AN ACT

101 **CONCERNING AN APPLICATION AND REVIEW PROCESS FOR ISSUING TAX**
102 **CREDIT CERTIFICATES FOR A STATE INCOME TAX CREDIT**
103 **ALLOWED FOR THE DONATION OF A PERPETUAL CONSERVATION**
104 **EASEMENT, AND, IN CONNECTION THEREWITH, MAKING AN**
105 **APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/bills/summaries>.)

Legislative Audit Committee. Current law allows a landowner to

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
May 6, 2013

HOUSE
Amended 2nd Reading
May 3, 2013

SENATE
3rd Reading Unamended
April 19, 2013

SENATE
Amended 2nd Reading
April 18, 2013

claim a state income tax credit of up to \$375,000 for donating all or a portion of a perpetual conservation easement to a qualified organization. Landowners are also allowed to transfer all or a portion of a credit to another taxpayer, known as a transferee. Currently, a conservation easement tax credit cannot be claimed or used by the landowner or transferred to another taxpayer unless a tax credit certificate is issued by the division of real estate (division) in the department of regulatory agencies.

The executive director of the department of revenue (department) has the authority, for good cause shown and in consultation with the division and the conservation easement oversight commission (commission), to review and accept or reject, in whole or in part, the appraised value of the conservation easement, the amount of the tax credit being claimed, and the validity of the tax credit based upon the federal and state statutes and regulations in effect at the time of the donation. Under the current process, the department reviews conservation easement tax credit claims and uses for compliance with applicable requirements after the landowner or transferee files a tax return with the department.

The bill requires a landowner to file an application for a conservation easement tax credit certificate with the division and have certain aspects of the conservation easement donation reviewed and approved by the division director and the commission before a tax credit certificate is issued. The bill sets forth provisions governing the following:

- ! The authority and responsibilities of the division, the division director, the commission, and the department in the tax credit certificate application review process, including the authority of the commission to delegate its authority to the division director;
- ! The required documentation to be included with an application for a tax credit certificate;
- ! The payment of a fee to cover the costs of administering the tax credit certificate application review process;
- ! The process for identifying potential deficiencies with a conservation easement donation for which a landowner is applying for a tax credit certificate, notifying the landowner of the potential deficiencies, and obtaining additional information from the landowner to address the potential deficiencies; and
- ! The process for approving an application or, if an application is denied, conducting settlement negotiations and appealing the denial.

A landowner may also request an optional preliminary advisory opinion from the division director and the commission regarding a proposed conservation easement donation. The opinion would be advisory

only and would not constitute approval of a tax credit certificate application or a tax credit claim.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds that:

4 (a) The ability of landowners to claim a state income tax credit for
5 the donation of a conservation easement is an important tool to help
6 preserve the scenic beauty, natural resources, agricultural lands, and
7 wildlife of Colorado; and

8 (b) Adoption of a conservation easement tax credit certificate
9 application and review process, including the ability for landowners to
10 obtain an optional preliminary advisory opinion regarding a proposed
11 conservation easement donation, would:

12 (I) Continue to provide Colorado landowners an economic
13 incentive to conserve and preserve their land in a predominantly natural,
14 scenic, or open condition;

15 (II) Ensure landowners' continued ability to claim, use, and
16 transfer tax credits for valid conservation easement donations;

17 (III) Ensure that the appraisal, conservation purpose, and other
18 aspects of a conservation easement donation are sufficiently scrutinized
19 for compliance with applicable requirements before a tax credit certificate
20 is issued vesting the landowner's right to claim the credit;

21 (IV) Ensure that reviews of tax credit certificate applications are
22 timely;

23 (V) Provide clearer lines of authority, responsibility, and
24 accountability; and

25 (VI) Minimize uncertainty for landowners to the greatest extent

1 possible.

2 **SECTION 2.** In Colorado Revised Statutes, 12-61-704, **add** (1)
3 (1) as follows:

4 **12-61-704. Powers and duties of the board.** (1) In addition to
5 all other powers and duties imposed upon it by law, the board has the
6 following powers and duties:

7 (1) TO ESTABLISH CLASSROOM EDUCATION AND EXPERIENCE
8 REQUIREMENTS FOR AN APPRAISER WHO PREPARES AN APPRAISAL FOR A
9 CONSERVATION EASEMENT FOR WHICH A TAX CREDIT IS CLAIMED
10 PURSUANT TO SECTION 39-22-522, C.R.S. SUCH REQUIREMENTS MUST
11 ENSURE THAT APPRAISERS HAVE A SUFFICIENT AMOUNT OF TRAINING AND
12 EXPERTISE TO ACCURATELY PREPARE APPRAISALS THAT COMPLY WITH THE
13 UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE AND ANY
14 OTHER PROVISION OF LAW RELATED TO THE APPRAISAL OF CONSERVATION
15 EASEMENTS FOR WHICH A TAX CREDIT IS CLAIMED. A TAX CREDIT
16 CERTIFICATE FOR A CONSERVATION EASEMENT SHALL NOT BE GIVEN IN
17 ACCORDANCE WITH SECTIONS 12-61-722 AND 12-61-723 UNLESS THE
18 APPRAISER WHO PREPARED THE APPRAISAL OF THE EASEMENT MET ALL
19 REQUIREMENTS ESTABLISHED IN ACCORDANCE WITH THIS PARAGRAPH (1)
20 IN EFFECT AT THE TIME THE APPRAISAL WAS COMPLETED.

21 **SECTION 3.** In Colorado Revised Statutes, 12-61-719, **amend**
22 (8); and **add** (9) as follows:

23 **12-61-719. Conservation easement appraisals - fund created**
24 **- repeal.** (8) Any appraiser who submits a copy of an appraisal to the
25 division in accordance with the requirements of this section shall pay the
26 division a fee as prescribed by the division. The fee shall cover the costs
27 of the division in administering the requirements of this section. The

1 division shall have the authority to accept and expend gifts, grants, and
2 donations for the purposes of this section. The state treasurer shall credit
3 fees, gifts, grants, and donations to the conservation easement appraisal
4 review fund, which fund is hereby created in the state treasury. Moneys
5 in the fund shall be annually appropriated to the division for the purposes
6 of implementing and administering this section and shall not revert to the
7 general fund at the end of any fiscal year. The fund shall be maintained
8 in accordance with section 24-75-402, C.R.S. On or before January 1,
9 2009, and on or before each January 1 thereafter, the division shall certify
10 to the general assembly the amount of the fee prescribed by the division
11 pursuant to this subsection (8). UPON THE REPEAL OF THIS SECTION, ANY
12 MONEYS REMAINING IN THE FUND SHALL BE TRANSFERRED TO THE
13 CONSERVATION EASEMENT TAX CREDIT CERTIFICATE REVIEW FUND
14 CREATED IN SECTION 12-61-723 (6).

15 (9) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2014.

16 **SECTION 4.** In Colorado Revised Statutes, 12-61-720, **amend**
17 (8) and (13); and **add** (11.5) as follows:

18 **12-61-720. Certification of conservation easement holders -**
19 **fund created - rules - repeal.** (8) ~~Beginning one year after the division~~
20 ~~commences accepting applications to certify the type of entity that holds~~
21 ~~a conservation easement in accordance with the provisions of subsection~~
22 ~~(7) of this section,~~ A CONSERVATION EASEMENT tax credit CERTIFICATE
23 APPLICATION may be ~~claimed for the easement~~ SUBMITTED pursuant to
24 ~~section 39-22-522, C.R.S.,~~ SECTION 12-61-723 only if the entity has been
25 certified in accordance with the provisions of this section at the time the
26 donation of the easement is made. The division shall make information
27 available to the public concerning the date that it commences accepting

1 applications for entities that hold conservation easements and the
2 requirements of this subsection (8).

3 (11.5) THE DIVISION SHALL HAVE THE AUTHORITY TO SUBPOENA
4 PERSONS AND DOCUMENTS, WHICH MAY BE ENFORCED BY A COURT OF
5 COMPETENT JURISDICTION IF NOT OBEYED, FOR PURPOSES OF CONDUCTING
6 INVESTIGATIONS PURSUANT TO SUBSECTION (11) OF THIS SECTION.

7 (13) This section is repealed, effective July 1, 2018. PRIOR TO
8 SUCH REPEAL, THE CERTIFICATION REQUIREMENT SHALL BE REVIEWED AS
9 PROVIDED FOR IN SECTION 24-34-104, C.R.S.

10 **SECTION 5.** In Colorado Revised Statutes, 12-61-721, **amend**
11 (1) (d), (3), (4), and (6); and **add** (1.3) as follows:

12 **12-61-721. Conservation easement oversight commission -**
13 **created - repeal.** (1) There is hereby created in the division a
14 conservation easement oversight commission consisting of nine members
15 as follows:

16 (d) Six members appointed by the governor as follows with at
17 least one member with the following qualifications or representing the
18 following interests:

19 (I) ~~A local land trust~~ CERTIFIED IN ACCORDANCE WITH SECTION
20 12-61-720;

21 (II) ~~A statewide or national land trust~~ A LAND TRUST OR LOCAL
22 GOVERNMENT OPEN SPACE OR LAND CONSERVATION AGENCY CERTIFIED
23 IN ACCORDANCE WITH SECTION 12-61-720;

24 (III) A local government open space or land conservation agency
25 CERTIFIED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 12-61-720;

26 (IV) ~~An historic preservation organization with experience in~~
27 ~~easements on properties of historical significance~~ AN INDIVIDUAL WHO IS

1 COMPETENT AND QUALIFIED TO ANALYZE THE CONSERVATION PURPOSE OF
2 CONSERVATION EASEMENTS;

3 (V) A certified general appraiser with experience in conservation
4 easements who meets any classroom education and experience
5 requirements established by the board in accordance with ~~section~~
6 ~~12-61-719~~ SECTION 12-61-704 (1)(l); and

7 (VI) A landowner that has donated a conservation easement in
8 Colorado.

9 (1.3) THE COMMISSION SHALL EXERCISE ITS POWERS AND PERFORM
10 ITS DUTIES AND FUNCTIONS UNDER THE DIVISION AS IF TRANSFERRED
11 THERETO BY A **TYPE 2** TRANSFER AS SUCH TRANSFER IS DEFINED IN THE
12 "ADMINISTRATIVE ORGANIZATION ACT OF 1968", ARTICLE 1 OF TITLE 24,
13 C.R.S.

14 (3) (a) AT THE REQUEST OF THE DIVISION OR THE DEPARTMENT OF
15 REVENUE, the commission shall advise the division and the department of
16 revenue regarding conservation easements for which a state income tax
17 credit is claimed pursuant to section 39-22-522, C.R.S. ~~At the request of~~
18 ~~the division or the department, the commission shall review conservation~~
19 ~~easement transactions, applications, and other documents and advise the~~
20 ~~division and the department regarding conservation values consistent with~~
21 ~~section 170 (h) of the federal "Internal Revenue Code of 1986", as~~
22 ~~amended, the capacity of conservation easement holders, and the integrity~~
23 ~~and accuracy of conservation easement transactions related to the tax~~
24 ~~credits.~~

25 (b) ~~On or before July 1, 2011, and on a quarterly basis thereafter,~~
26 ~~the commission shall provide a report to the joint budget committee and~~
27 ~~the finance committees of the general assembly describing the number of~~

1 credits for which the executive director of the department of revenue has
2 sought the advice of the commission pursuant to paragraph (a) of this
3 subsection (3), the date any such advice was sought, the number of credits
4 for which the commission provided advice to the executive director, and
5 the date any such advice was provided.

6 (c) THE COMMISSION SHALL REVIEW CONSERVATION EASEMENT
7 TAX CREDIT CERTIFICATE APPLICATIONS AND REQUESTS FOR OPTIONAL
8 PRELIMINARY ADVISORY OPINIONS IN ACCORDANCE WITH SECTION
9 12-61-723.

10 (4) The commission shall meet not less than once each quarter. to
11 review applications for conservation easement holder certification
12 submitted in accordance with section 12-61-720 and to review any other
13 issues referred to the commission by the division, the department of
14 revenue, or any other state entity. The division shall convene the meetings
15 of the commission and provide staff support as requested by the
16 commission. A majority of the members of the commission shall
17 constitute CONSTITUTES a quorum for the transaction of all business, and
18 actions of the commission shall require a vote of a majority of such
19 members present in favor of the action taken. THE COMMISSION MAY
20 DELEGATE TO THE DIRECTOR THE AUTHORITY TO ACT ON BEHALF OF THE
21 COMMISSION ON SUCH OCCASIONS AND IN SUCH CIRCUMSTANCES AS THE
22 COMMISSION DEEMS NECESSARY FOR THE EFFICIENT AND EFFECTIVE
23 ADMINISTRATION AND EXECUTION OF THE COMMISSION'S RESPONSIBILITIES
24 UNDER THIS PART 7.

25 (6) The commission shall meet at least quarterly ADVISE and make
26 recommendations to the division DIRECTOR regarding the certification
27 program OF CONSERVATION EASEMENT HOLDERS IN ACCORDANCE WITH

1 SECTION 12-61-720. The division shall have the authority to determine
2 whether an applicant for certification possesses the necessary
3 qualifications for certification required by the rules adopted by the
4 division. If the division determines that an applicant does not possess the
5 applicable qualifications for certification or that the applicant has violated
6 any provision of this part 7, the rules promulgated by the division, or any
7 division order, the division may deny the applicant a certification or deny
8 the renewal of a certification; and, in such instance, the division shall
9 provide the applicant with a statement in writing setting forth the basis of
10 the division's determination. The applicant may request a hearing on the
11 determination as provided in section 24-4-104 (9), C.R.S. The division
12 shall notify successful applicants in writing. An applicant that is not
13 certified may reapply for certification in accordance with procedure
14 established by the division.

15 **SECTION 6.** In Colorado Revised Statutes, **amend** 12-61-722 as
16 follows:

17 **12-61-722. Conservation easement tax credit certificates.**

18 (1) The division shall receive ~~claims~~ TAX CREDIT CERTIFICATE
19 APPLICATIONS from and issue certificates to ~~certified conservation~~
20 ~~easement holders~~ LANDOWNERS for income tax credits for conservation
21 easements donated ~~during the 2011, 2012, and 2013 calendar years~~ ON OR
22 AFTER JANUARY 1, 2011, in accordance with ~~the provisions of~~ section
23 39-22-522 (2.5), C.R.S., AND THIS PART 7. Nothing in this section shall be
24 construed to restrict or limit the authority of the division to enforce ~~the~~
25 ~~provisions of~~ this part 7. The division may promulgate rules in
26 accordance with article 4 of title 24, C.R.S., for the issuance of the
27 certificates. In promulgating any such rules, the division may include but

1 shall not be limited to provisions governing the following:

2 (a) The review of the tax credit certificate APPLICATION PURSUANT
3 TO THIS PART 7;

4 (b) The administration and financing of the certification process;

5 (c) The notification to the public regarding the aggregate amount
6 of TAX CREDIT certificates that have been issued and that are on the wait
7 list;

8 (d) The notification to the ~~taxpayer~~ LANDOWNER, the entity to
9 which the easement was granted, and the department of revenue regarding
10 the TAX CREDIT certificates issued; and

11 (e) Any other matters related to administering ~~the provisions of~~
12 section 39-22-522 (2.5), C.R.S., OR THIS PART 7.

13 **SECTION 7.** In Colorado Revised Statutes, **amend as amended**
14 **by House Bill 13-1183** 12-61-722 (1) introductory portion, (1) (a), and
15 (1) (e); and **amend** (1) (b), (1) (c), and (1) (d) as follows:

16 **12-61-722. Conservation easement tax credit certificates.**

17 (1) The division shall receive tax credit certificate applications from and
18 issue certificates to ~~taxpayers~~ LANDOWNERS for income tax credits for
19 conservation easements donated on or after January 1, 2011, in
20 accordance with section 39-22-522 (2.5), C.R.S., and this part 7. Nothing
21 in this section shall be construed to restrict or limit the authority of the
22 division to enforce this part 7. The division may promulgate rules in
23 accordance with article 4 of title 24, C.R.S., for the issuance of the
24 certificates. In promulgating any such rules, the division may include but
25 shall not be limited to provisions governing the following:

26 (a) The review of the tax credit certificate application pursuant to
27 this part 7;

- 1 (b) The administration and financing of the certification process;
- 2 (c) The notification to the public regarding the aggregate amount
- 3 of tax credit certificates that have been issued and that are on the wait list;
- 4 (d) The notification to the taxpayer LANDOWNER, the entity to
- 5 which the easement was granted, and the department of revenue regarding
- 6 the tax credit certificates issued; and
- 7 (e) Any other matters related to administering section 39-22-522
- 8 (2.5), C.R.S., or this part 7.

9 **SECTION 8.** In Colorado Revised Statutes, add 12-61-723 as

10 follows:

11 **12-61-723. Conservation easement tax credit certificate**

12 **application process - conservation easement tax credit certificate**

13 **review fund - created - definitions.** (1) FOR PURPOSES OF THIS SECTION:

14 (a) "APPLICATION" MEANS AN APPLICATION FOR A TAX CREDIT

15 CERTIFICATE SUBMITTED PURSUANT TO SECTION 12-61-722 OR THIS

16 SECTION.

17 (b) "CONSERVATION PURPOSE" MEANS CONSERVATION PURPOSE AS

18 DEFINED IN SECTION 170 (h) OF THE FEDERAL "INTERNAL REVENUE CODE

19 OF 1986", AS AMENDED, AND ANY FEDERAL REGULATIONS PROMULGATED

20 IN CONNECTION WITH SUCH SECTION.

21 (c) "CREDIBILITY" MEANS THE RESULTS ARE WORTHY OF BELIEF

22 AND ARE SUPPORTED BY RELEVANT EVIDENCE AND LOGIC TO THE DEGREE

23 NECESSARY FOR THE INTENDED USE.

24 (d) "DEFICIENCY" MEANS NONCOMPLIANCE WITH A REQUIREMENT

25 FOR OBTAINING A TAX CREDIT CERTIFICATE THAT, UNLESS SUCH

26 NONCOMPLIANCE IS REMEDIED, IS GROUNDS FOR THE DENIAL OF A TAX

27 CREDIT CERTIFICATE APPLICATION SUBMITTED PURSUANT TO THIS

1 SECTION.

2 (e) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OF REAL
3 ESTATE OR HIS OR HER DESIGNEE.

4 (f) "LANDOWNER" MEANS THE RECORD OWNER OF THE SURFACE OF
5 THE LAND AND, IF APPLICABLE, OWNER OF THE WATER OR WATER RIGHTS
6 BENEFICIALLY USED THEREON WHO CREATES A CONSERVATION EASEMENT
7 IN GROSS PURSUANT TO SECTION 38-30.5-104, C.R.S.

8 (g) "TAX CREDIT CERTIFICATE" MEANS THE CONSERVATION
9 EASEMENT TAX CREDIT CERTIFICATE ISSUED PURSUANT TO SECTION
10 12-61-722 AND THIS SECTION.

11 (2) (a) THE DIVISION SHALL ESTABLISH AND ADMINISTER A
12 PROCESS BY WHICH A LANDOWNER SEEKING TO CLAIM AN INCOME TAX
13 CREDIT FOR ANY CONSERVATION EASEMENT DONATION MADE ON OR AFTER
14 JANUARY 1, 2014, MUST APPLY FOR A TAX CREDIT CERTIFICATE AS
15 REQUIRED BY SECTION 39-22-522 (2.5) AND (2.7), C.R.S. THE PURPOSE OF
16 THE APPLICATION PROCESS IS TO DETERMINE WHETHER A CONSERVATION
17 EASEMENT DONATION FOR WHICH A TAX CREDIT WILL BE CLAIMED:

18 (I) IS A CONTRIBUTION OF A QUALIFIED REAL PROPERTY INTEREST
19 TO A QUALIFIED ORGANIZATION TO BE USED EXCLUSIVELY FOR A
20 CONSERVATION PURPOSE;

21 (II) IS SUBSTANTIATED WITH A QUALIFIED APPRAISAL PREPARED BY
22 A QUALIFIED APPRAISER IN ACCORDANCE WITH THE UNIFORM STANDARDS
23 OF PROFESSIONAL APPRAISAL PRACTICE; AND

24 (III) COMPLIES WITH THE REQUIREMENTS SET FORTH IN THIS
25 SECTION.

26 (b) THE LANDOWNER SHALL HAVE THE BURDEN OF PROOF
27 REGARDING COMPLIANCE WITH ALL APPLICABLE LAWS AND REGULATIONS.

1 (3) FOR THE PURPOSE OF REVIEWING APPLICATIONS AND MAKING
2 DETERMINATIONS REGARDING THE ISSUANCE OF TAX CREDIT
3 CERTIFICATES, INCLUDING THE DOLLAR AMOUNT OF THE TAX CREDIT
4 CERTIFICATE TO BE ISSUED:

5 (a) DIVISION STAFF SHALL REVIEW EACH APPLICATION AND ADVISE
6 AND MAKE RECOMMENDATIONS TO THE DIRECTOR AND THE COMMISSION
7 REGARDING THE APPLICATION;

8 (b) THE DIRECTOR HAS AUTHORITY AND RESPONSIBILITY TO
9 DETERMINE THE CREDIBILITY OF THE APPRAISAL. IN DETERMINING
10 CREDIBILITY, THE DIRECTOR SHALL CONSIDER, AT A MINIMUM,
11 COMPLIANCE WITH THE FOLLOWING REQUIREMENTS:

12 (I) THE APPRAISAL FOR A CONSERVATION EASEMENT DONATION
13 FOR WHICH A TAX CREDIT IS CLAIMED PURSUANT TO SECTION 39-22-522,
14 C.R.S., IS A QUALIFIED APPRAISAL FROM A QUALIFIED APPRAISER, AS
15 DEFINED IN SECTION 170 (f) OF THE FEDERAL "INTERNAL REVENUE CODE
16 OF 1986", AS AMENDED, AND ANY FEDERAL REGULATIONS PROMULGATED
17 IN CONNECTION WITH SUCH SECTION.

18 (II) THE APPRAISAL CONFORMS WITH THE UNIFORM STANDARDS OF
19 PROFESSIONAL APPRAISAL PRACTICE PROMULGATED BY THE APPRAISAL
20 STANDARDS BOARD OF THE APPRAISAL FOUNDATION AND ANY OTHER
21 PROVISION OF LAW.

22 (III) THE APPRAISER HOLDS A VALID LICENSE AS A CERTIFIED
23 GENERAL APPRAISER IN ACCORDANCE WITH THIS PART 7.

24 (IV) THE APPRAISER MEETS ANY EDUCATION AND EXPERIENCE
25 REQUIREMENTS ESTABLISHED BY THE BOARD OF REAL ESTATE APPRAISERS
26 IN ACCORDANCE WITH SECTION 12-61-704 (1) (I).

27 (c) THE DIRECTOR SHALL HAVE THE AUTHORITY AND

1 RESPONSIBILITY TO DETERMINE COMPLIANCE WITH THE REQUIREMENTS OF
2 SECTION 12-61-720.

3 (d) THE COMMISSION SHALL HAVE THE AUTHORITY AND
4 RESPONSIBILITY TO DETERMINE WHETHER A CONSERVATION EASEMENT
5 DONATION FOR WHICH A TAX CREDIT IS CLAIMED PURSUANT TO SECTION
6 39-22-522, C.R.S., IS A QUALIFIED CONSERVATION CONTRIBUTION AS
7 DEFINED IN SECTION 170 (h) OF THE FEDERAL "INTERNAL REVENUE CODE
8 OF 1986", AS AMENDED, AND ANY FEDERAL REGULATIONS PROMULGATED
9 IN CONNECTION WITH SUCH SECTION.

10 (4) THE DEPARTMENT OF REVENUE SHALL NOT HAVE THE
11 AUTHORITY TO DISALLOW A CONSERVATION EASEMENT TAX CREDIT BASED
12 ON ANY REQUIREMENTS THAT ARE UNDER THE JURISDICTION OF THE
13 DIVISION, THE DIRECTOR, OR THE COMMISSION PURSUANT TO THIS
14 SECTION.

15 (5) A COMPLETE TAX CREDIT CERTIFICATE APPLICATION MUST BE
16 MADE BY THE LANDOWNER TO THE DIVISION AND MUST INCLUDE THE
17 FOLLOWING:

18 (a) A COPY OF THE FINAL CONSERVATION EASEMENT APPRAISAL;

19 (b) A COPY OF THE RECORDED DEED GRANTING THE
20 CONSERVATION EASEMENT;

21 (c) DOCUMENTATION SUPPORTING THE CONSERVATION PURPOSE
22 OF THE EASEMENT;

23 (d) ANY OTHER INFORMATION OR DOCUMENTATION THE DIRECTOR
24 OR THE COMMISSION DEEMS NECESSARY TO MAKE A FINAL
25 DETERMINATION REGARDING THE APPLICATION; AND

26 (e) THE FEE REQUIRED PURSUANT TO SUBSECTION (6) OF THIS
27 SECTION.

1 (6) A LANDOWNER SUBMITTING AN APPLICATION FOR A TAX
2 CREDIT CERTIFICATE PURSUANT TO THIS SECTION OR AN APPLICATION FOR
3 AN OPTIONAL PRELIMINARY ADVISORY OPINION PURSUANT TO SUBSECTION
4 (14) OF THIS SECTION SHALL PAY THE DIVISION A FEE AS PRESCRIBED BY
5 THE DIVISION. THE APPLICATION FEE FOR AN OPTIONAL PRELIMINARY
6 ADVISORY OPINION MAY BE A DIFFERENT DOLLAR AMOUNT THAN THE
7 APPLICATION FEE FOR A TAX CREDIT CERTIFICATE. THE FEES MUST COVER
8 THE COSTS OF THE DIVISION AND THE COMMISSION IN ADMINISTERING THE
9 REQUIREMENTS OF THIS SECTION. THE STATE TREASURER SHALL CREDIT
10 THE FEES COLLECTED PURSUANT TO THIS SUBSECTION (6) TO THE
11 CONSERVATION EASEMENT TAX CREDIT CERTIFICATE REVIEW FUND, WHICH
12 FUND IS HEREBY CREATED IN THE STATE TREASURY. THE GENERAL
13 ASSEMBLY SHALL ANNUALLY APPROPRIATE MONEYS IN THE FUND TO THE
14 DIVISION FOR THE PURPOSES OF IMPLEMENTING AND ADMINISTERING THIS
15 SECTION. THE MONEYS SHALL NOT REVERT TO THE GENERAL FUND AT THE
16 END OF ANY FISCAL YEAR. THE FUND SHALL BE MAINTAINED IN
17 ACCORDANCE WITH SECTION 24-75-402, C.R.S. ON OR BEFORE JANUARY
18 1, 2014, AND ON OR BEFORE EACH JANUARY 1 THEREAFTER, THE DIVISION
19 SHALL CERTIFY TO THE GENERAL ASSEMBLY THE AMOUNT OF ANY FEES
20 PRESCRIBED BY THE DIVISION PURSUANT TO THIS SUBSECTION (6).

21 (7) (a) IF, DURING THE REVIEW OF AN APPLICATION FOR A TAX
22 CREDIT CERTIFICATE, THE DIRECTOR OR THE COMMISSION IDENTIFIES ANY
23 POTENTIAL DEFICIENCIES, SUCH POTENTIAL DEFICIENCIES MUST BE
24 DOCUMENTED IN A LETTER SENT TO THE LANDOWNER BY FIRST CLASS
25 MAIL. THE DIVISION SHALL SEND LETTERS DOCUMENTING POTENTIAL
26 DEFICIENCIES TO LANDOWNERS IN A TIMELY MANNER SUCH THAT THE
27 AVERAGE NUMBER OF DAYS BETWEEN THE DATE A COMPLETED

1 APPLICATION IS RECEIVED BY THE DIVISION AND THE MAILING DATE OF THE
2 DIVISION'S LETTER TO THE LANDOWNER DOES NOT EXCEED ONE HUNDRED
3 TWENTY DAYS.

4 (b) THE LANDOWNER SHALL HAVE SIXTY DAYS FROM THE MAILING
5 DATE OF THE DIVISION'S LETTER TO ADDRESS THE POTENTIAL DEFICIENCIES
6 IDENTIFIED BY THE DIRECTOR AND THE COMMISSION AND PROVIDE
7 ADDITIONAL INFORMATION OR DOCUMENTATION THAT THE DIRECTOR OR
8 THE COMMISSION DEEMS NECESSARY TO MAKE A FINAL DETERMINATION
9 REGARDING THE APPLICATION.

10 (c) THE DIRECTOR AND THE COMMISSION SHALL HAVE NINETY
11 DAYS FROM RECEIVING ANY ADDITIONAL INFORMATION OR
12 DOCUMENTATION PROVIDED BY THE LANDOWNER TO REVIEW SUCH
13 INFORMATION AND DOCUMENTATION AND MAKE A FINAL DETERMINATION
14 REGARDING THE APPLICATION.

15 (d) THE DEADLINES PRESCRIBED BY THIS SUBSECTION (7) MAY BE
16 EXTENDED UPON MUTUAL AGREEMENT BETWEEN THE DIRECTOR AND THE
17 COMMISSION AND THE LANDOWNER.

18 (8) THE DIRECTOR OR THE COMMISSION MAY DENY AN
19 APPLICATION IF THE LANDOWNER:

20 (a) HAS NOT DEMONSTRATED, TO THE SATISFACTION OF THE
21 DIRECTOR OR THE COMMISSION, THAT THE APPLICATION COMPLIES WITH
22 ANY REQUIREMENT OF THIS PART 7;

23 (b) DOES NOT PROVIDE THE INFORMATION AND DOCUMENTATION
24 REQUIRED PURSUANT TO THIS PART 7; OR

25 (c) FAILS TO TIMELY RESPOND TO ANY WRITTEN REQUEST OR
26 NOTICE FROM THE DIVISION, THE DIRECTOR, OR THE COMMISSION.

27 (9) IF THE DIRECTOR REASONABLY BELIEVES THAT ANY APPRAISAL

1 SUBMITTED IN ACCORDANCE WITH THIS SECTION IS NOT CREDIBLE, THE
2 DIRECTOR SHALL HAVE THE AUTHORITY, AFTER CONSULTATION WITH THE
3 COMMISSION, TO REQUIRE THE LANDOWNER, AT THE LANDOWNER'S
4 EXPENSE, TO OBTAIN EITHER A REVISED APPRAISAL OR A SECOND
5 APPRAISAL FROM AN APPRAISER WHO MEETS THE REQUIREMENTS OF THIS
6 PART 7 AND IS IN GOOD STANDING WITH THE BOARD BEFORE MAKING A
7 FINAL DETERMINATION REGARDING THE APPLICATION.

8 (10) IF THE DIRECTOR AND THE COMMISSION DO NOT IDENTIFY ANY
9 POTENTIAL DEFICIENCIES WITH AN APPLICATION, THE DIRECTOR AND THE
10 COMMISSION SHALL APPROVE THE APPLICATION AND THE DIVISION SHALL
11 ISSUE A TAX CREDIT CERTIFICATE TO THE LANDOWNER PURSUANT TO
12 SECTION 12-61-722 IN A TIMELY MANNER SUCH THAT THE AVERAGE
13 NUMBER OF DAYS BETWEEN THE DATE A COMPLETED APPLICATION IS
14 RECEIVED BY THE DIVISION AND THE DATE THE TAX CREDIT CERTIFICATE
15 IS ISSUED DOES NOT EXCEED ONE HUNDRED TWENTY DAYS. ONCE A TAX
16 CREDIT CERTIFICATE IS ISSUED, THE LANDOWNER MAY CLAIM AND USE THE
17 TAX CREDIT SUBJECT TO ANY OTHER APPLICABLE PROCEDURES AND
18 REQUIREMENTS UNDER TITLE 39, C.R.S.

19 (11) (a) IF ALL POTENTIAL DEFICIENCIES THAT HAVE BEEN
20 IDENTIFIED ARE SUBSEQUENTLY ADDRESSED TO THE SATISFACTION OF THE
21 DIRECTOR AND THE COMMISSION, THE DIRECTOR AND THE COMMISSION
22 SHALL APPROVE THE APPLICATION AND THE DIVISION SHALL ISSUE A TAX
23 CREDIT CERTIFICATE TO THE LANDOWNER PURSUANT TO SECTION
24 12-61-722. ONCE A TAX CREDIT CERTIFICATE IS ISSUED, THE LANDOWNER
25 MAY CLAIM AND USE THE TAX CREDIT SUBJECT TO ANY OTHER APPLICABLE
26 PROCEDURES AND REQUIREMENTS UNDER TITLE 39, C.R.S.

27 (b) IF ANY POTENTIAL DEFICIENCIES THAT HAVE BEEN IDENTIFIED

1 ARE NOT SUBSEQUENTLY ADDRESSED TO THE SATISFACTION OF THE
2 DIRECTOR AND THE COMMISSION, THE DIVISION SHALL ISSUE A WRITTEN
3 DENIAL OF THE APPLICATION TO THE LANDOWNER DOCUMENTING THOSE
4 DEFICIENCIES THAT WERE THE SPECIFIC BASIS FOR THE DENIAL. THE
5 WRITTEN DENIAL MUST BE DATED AND SENT BY FIRST CLASS MAIL TO THE
6 LANDOWNER AT THE ADDRESS PROVIDED BY THE LANDOWNER ON THE
7 APPLICATION. THE DIRECTOR SHALL HAVE THE AUTHORITY TO ACT ON
8 BEHALF OF THE COMMISSION FOR PURPOSES OF ADMINISTERING THE
9 PROCESS FOR ISSUING APPROVALS AND DENIALS OF APPLICATIONS AND FOR
10 ADMINISTERING SUBSECTION (12) OF THIS SECTION.

11 (12) (a) THE LANDOWNER MAY APPEAL TO THE DIRECTOR EITHER
12 THE DIRECTOR'S OR THE COMMISSION'S DENIAL OF AN APPLICATION, IN
13 WRITING, WITHIN THIRTY DAYS OF THE ISSUANCE OF THE DENIAL. THIS
14 WRITTEN APPEAL CONSTITUTES A REQUEST FOR AN ADMINISTRATIVE
15 HEARING.

16 (b) IF THE LANDOWNER FAILS TO APPEAL THE DENIAL OF AN
17 APPLICATION WITHIN THIRTY DAYS OF THE ISSUANCE OF THE DENIAL, THE
18 DENIAL BECOMES FINAL AND NO TAX CREDIT CERTIFICATE SHALL BE
19 ISSUED.

20 (c) ADMINISTRATIVE HEARINGS MUST BE CONDUCTED IN
21 ACCORDANCE WITH SECTION 24-4-105, C.R.S. AT THE DISCRETION OF THE
22 DIRECTOR, HEARINGS MAY BE CONDUCTED BY AN AUTHORIZED
23 REPRESENTATIVE OF THE DIRECTOR OR THE COMMISSION OR AN
24 ADMINISTRATIVE LAW JUDGE FROM THE OFFICE OF ADMINISTRATIVE
25 COURTS IN THE DEPARTMENT OF PERSONNEL. ALL HEARINGS WILL BE HELD
26 IN THE COUNTY WHERE THE DIVISION IS LOCATED UNLESS THE DIRECTOR
27 DESIGNATES OTHERWISE. THE DECISION OF THE DIRECTOR OR THE

1 COMMISSION IS SUBJECT TO JUDICIAL REVIEW BY THE COURT OF APPEALS
2 AND IS SUBJECT TO THE PROVISIONS OF SECTION 24-4-106, C.R.S.

3 (d) IN CONDUCTING SETTLEMENT DISCUSSIONS WITH A
4 LANDOWNER, THE DIRECTOR AND THE COMMISSION SHALL HAVE THE
5 AUTHORITY TO COMPROMISE ON ANY OF THE DEFICIENCIES IDENTIFIED IN
6 THE APPLICATION AND SUPPORTING DOCUMENTATION, INCLUDING THE
7 DOLLAR AMOUNT OF THE TAX CREDIT CERTIFICATE TO BE ISSUED. A
8 RECORD OF ANY SUCH COMPROMISE AND THE REASONS THEREFORE SHALL
9 BE PLACED ON FILE IN THE DIVISION.

10 (e) THE DIRECTOR SHALL HAVE THE AUTHORITY TO PROMULGATE
11 RULES PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S., TO EFFECTUATE THE
12 PURPOSES OF THIS SUBSECTION (12).

13 (13) COMMENCING WITH THE 2014 CALENDAR YEAR, AND FOR
14 EACH CALENDAR YEAR THEREAFTER, THE DIVISION SHALL CREATE A
15 REPORT, WHICH SHALL BE MADE AVAILABLE TO THE PUBLIC, CONTAINING
16 THE FOLLOWING AGGREGATE INFORMATION:

17 (a) THE TOTAL NUMBER OF TAX CREDIT CERTIFICATE APPLICATIONS
18 RECEIVED, APPROVED, AND DENIED IN ACCORDANCE WITH THIS SECTION,
19 ALONG WITH AVERAGE PROCESSING TIMES;

20 (b) FOR APPLICATIONS APPROVED IN ACCORDANCE WITH THIS
21 SECTION:

22 (I) THE TOTAL ACREAGE UNDER EASEMENT SUMMARIZED BY THE
23 ALLOWABLE CONSERVATION PURPOSES AS DEFINED IN SECTION 170(h) OF
24 THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, AND
25 ANY FEDERAL REGULATIONS PROMULGATED IN CONNECTION WITH SUCH
26 SECTION;

27 (II) THE TOTAL APPRAISED VALUE OF THE EASEMENTS;

1 (III) THE TOTAL DONATED VALUE OF THE EASEMENTS; AND

2 (IV) THE TOTAL DOLLAR AMOUNT OF TAX CREDIT CERTIFICATES
3 ISSUED; AND

4 (c) THE DIVISION MAY INCLUDE ADDITIONAL EASEMENT-SPECIFIC
5 INFORMATION IN THE PUBLIC REPORT THAT, NOTWITHSTANDING THE
6 PROVISIONS OF THIS PART 7 OR ANY OTHER LAW TO THE CONTRARY,
7 WOULD OTHERWISE BE PUBLICLY AVAILABLE.

8 (14) (a) IN ADDITION TO THE TAX CREDIT CERTIFICATE
9 APPLICATION PROCESS SET FORTH IN THIS SECTION, A LANDOWNER MAY
10 SUBMIT A PROPOSED CONSERVATION EASEMENT DONATION TO THE
11 DIVISION TO OBTAIN AN OPTIONAL PRELIMINARY ADVISORY OPINION
12 REGARDING THE TRANSACTION. THE OPINION MAY ADDRESS THE
13 PROPOSED DEED OF CONSERVATION EASEMENT, APPRAISAL,
14 CONSERVATION PURPOSE, OR OTHER RELEVANT ASPECT OF THE
15 TRANSACTION.

16 (b) THE DIVISION, THE DIRECTOR, AND THE COMMISSION SHALL
17 REVIEW THE INFORMATION AND DOCUMENTATION PROVIDED IN A MANNER
18 CONSISTENT WITH THE SCOPE OF THEIR AUTHORITY AND RESPONSIBILITIES
19 FOR REVIEWING TAX CREDIT CERTIFICATE APPLICATIONS AS OUTLINED IN
20 SUBSECTION (3) OF THIS SECTION AND ISSUE EITHER A FAVORABLE OPINION
21 OR A NONFAVORABLE OPINION.

22 (c) THE DIRECTOR OR THE COMMISSION MAY REQUEST THAT THE
23 LANDOWNER SUBMIT ADDITIONAL INFORMATION OR DOCUMENTATION
24 THAT THE DIRECTOR OR THE COMMISSION DEEMS NECESSARY TO
25 COMPLETE THE REVIEW AND ISSUE AN OPINION.

26 (d) A NONFAVORABLE OPINION SHALL SET FORTH ANY POTENTIAL
27 DEFICIENCIES IDENTIFIED BY THE DIRECTOR OR THE COMMISSION AND

1 THAT FALL WITHIN THE SCOPE OF THE DIRECTOR'S AND THE COMMISSION'S
2 REVIEW OF THE CONSERVATION EASEMENT TRANSACTION. THE
3 PRELIMINARY OPINION IS ADVISORY ONLY AND IS NOT BINDING FOR ANY
4 PURPOSE UPON THE DIVISION, THE DIRECTOR, THE COMMISSION, OR THE
5 DEPARTMENT OF REVENUE.

6 (15) THE DIVISION SHALL HAVE THE AUTHORITY TO PROMULGATE
7 RULES TO EFFECTUATE THE PURPOSE, IMPLEMENTATION, AND
8 ADMINISTRATION OF THE PROVISIONS OF THIS SECTION PURSUANT TO
9 ARTICLE 4 OF TITLE 24, C.R.S. THIS AUTHORITY SHALL INCLUDE THE
10 AUTHORITY TO DEFINE FURTHER IN RULE THE ADMINISTRATIVE PROCESSES
11 AND REQUIREMENTS, INCLUDING APPLICATION PROCESSING AND REVIEW
12 TIME FRAMES, FOR OBTAINING AND ISSUING AN OPTIONAL PRELIMINARY
13 ADVISORY OPINION PURSUANT TO SUBSECTION (14) OF THIS SECTION.

14 (16) NOTWITHSTANDING THE PROVISIONS OF THE "COLORADO
15 OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S., THE
16 DIVISION, THE DIRECTOR, AND THE COMMISSION SHALL DENY THE RIGHT
17 OF PUBLIC INSPECTION OF ANY DOCUMENTATION OR OTHER RECORD
18 RELATED TO INFORMATION OBTAINED AS PART OF AN INDIVIDUAL
19 LANDOWNER'S APPLICATION FOR A TAX CREDIT CERTIFICATE OR AN
20 OPTIONAL PRELIMINARY ADVISORY OPINION PURSUANT TO THE
21 REQUIREMENTS OF THIS SECTION, INCLUDING DOCUMENTATION OR OTHER
22 RECORDS RELATED TO ADMINISTRATIVE HEARINGS AND SETTLEMENT
23 DISCUSSIONS HELD PURSUANT TO SUBSECTION (12) OF THIS SECTION. THE
24 DIVISION, THE DIRECTOR, AND THE COMMISSION SHALL HAVE THE
25 AUTHORITY TO SHARE DOCUMENTATION OR OTHER RECORDS RELATED TO
26 INFORMATION OBTAINED PURSUANT TO THIS SECTION WITH THE
27 DEPARTMENT OF REVENUE.

1 (17) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO AFFECT
2 ANY TAX CREDIT THAT IS CLAIMED OR USED PURSUANT TO SECTION
3 39-22-522, C.R.S., FOR CONSERVATION EASEMENT DONATIONS
4 OCCURRING PRIOR TO JANUARY 1, 2014.

5 **SECTION 9.** In Colorado Revised Statutes, 39-22-522, **amend**
6 (2), (2.5), (3) introductory portion, (3.3), (3.5), (6), (10), and (11); and
7 **add** (2.7) and (3.6) as follows:

8 **39-22-522. Credit against tax - conservation easements.**

9 (2) (a) For income tax years commencing on or after January 1, 2000,
10 BUT PRIOR TO JANUARY 1, 2014, and, with regard to any credit over the
11 amount of one hundred thousand dollars, for income tax years
12 commencing on or after January 1, 2003, subject to the provisions of
13 subsections (4) and (6) of this section, there shall be allowed a credit with
14 respect to the income taxes imposed by this article to each taxpayer who
15 donates during the taxable year all or part of the value of a perpetual
16 conservation easement in gross created pursuant to article 30.5 of title 38,
17 C.R.S., upon real property the taxpayer owns to a governmental entity or
18 a charitable organization described in section 38-30.5-104 (2), C.R.S. The
19 credit shall only be allowed for a donation that is eligible to qualify as a
20 qualified conservation contribution pursuant to section 170 (h) of the
21 internal revenue code, as amended, and any federal regulations
22 promulgated in connection with such section. The amount of the credit
23 shall not include the value of any portion of an easement on real property
24 located in another state.

25 (b) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
26 1, 2014, AND, WITH REGARD TO ANY CREDIT OVER THE AMOUNT OF ONE
27 HUNDRED THOUSAND DOLLARS, FOR INCOME TAX YEARS COMMENCING ON

1 OR AFTER JANUARY 1, 2003, SUBJECT TO THE PROVISIONS OF SUBSECTIONS
2 (4) AND (6) OF THIS SECTION, THERE SHALL BE ALLOWED A CREDIT WITH
3 RESPECT TO THE INCOME TAXES IMPOSED BY THIS ARTICLE TO EACH
4 TAXPAYER WHO DONATES DURING THE TAXABLE YEAR ALL OR PART OF
5 THE VALUE OF A PERPETUAL CONSERVATION EASEMENT IN GROSS CREATED
6 PURSUANT TO ARTICLE 30.5 OF TITLE 38, C.R.S., UPON REAL PROPERTY
7 THE TAXPAYER OWNS TO A GOVERNMENTAL ENTITY OR A CHARITABLE
8 ORGANIZATION DESCRIBED IN SECTION 38-30.5-104 (2), C.R.S. THE
9 CREDIT SHALL ONLY BE ALLOWED FOR A DONATION THAT MEETS THE
10 REQUIREMENTS OF SECTION 170 OF THE FEDERAL "INTERNAL REVENUE
11 CODE OF 1986", AS AMENDED, AND ANY FEDERAL REGULATIONS
12 PROMULGATED IN ACCORDANCE WITH SUCH SECTION. THE AMOUNT OF THE
13 CREDIT SHALL NOT INCLUDE THE VALUE OF ANY PORTION OF AN EASEMENT
14 ON REAL PROPERTY LOCATED IN ANOTHER STATE.

15 (2.5) Notwithstanding any other provision of this section AND THE
16 REQUIREMENTS OF SECTION 12-61-723, C.R.S., for income tax years
17 commencing during the 2011, 2012, and 2013 calendar years, a taxpayer
18 conveying a conservation easement in 2011, 2012, or 2013 and claiming
19 a credit pursuant to this section shall, in addition to any other
20 requirements of this section AND THE REQUIREMENTS OF SECTION
21 12-61-723, C.R.S., submit a claim for the credit to the division of real
22 estate in the department of regulatory agencies. The division shall issue
23 a certificate for the claims received in the order submitted. After
24 certificates have been issued for credits that exceed an aggregate of
25 twenty-two million dollars for all taxpayers for income tax years
26 commencing in each of the 2011 and 2012 calendar years and thirty-four
27 million dollars for each income tax year commencing in the 2013

1 calendar year, any claims that exceed the amount allowed for a specified
2 calendar year shall be placed on a wait list in the order submitted and a
3 certificate shall be issued for use of the credit in 2012 or 2013. The
4 division shall not issue credit certificates that exceed twenty-two million
5 dollars for each income tax year commencing in the 2011 and 2012
6 calendar years and thirty-four million dollars for each income tax year
7 commencing in the 2013 calendar year. No claim for a credit shall be
8 allowed for any income tax year commencing during the 2011, 2012, or
9 2013 calendar years unless a certificate has been issued by the division.
10 PROVIDED THAT ALL OTHER REQUIREMENTS UNDER SECTION 12-61-723,
11 C.R.S, AND THIS SECTION ARE MET, the right to claim the credit shall be
12 vested in the taxpayer at the time a credit certificate is issued. The
13 division may promulgate rules in accordance with article 4 of title 24,
14 C.R.S., for the issuance of certificates in accordance with this subsection
15 (2.5).

16 (2.7) NOTWITHSTANDING ANY OTHER PROVISION, FOR INCOME TAX
17 YEARS COMMENCING ON OR AFTER JANUARY 1, 2014, NO CLAIM FOR A
18 CREDIT SHALL BE ALLOWED UNLESS A TAX CREDIT CERTIFICATE IS ISSUED
19 BY THE DIVISION OF REAL ESTATE IN ACCORDANCE WITH SECTIONS
20 12-61-722 AND 12-61-723, C.R.S., AND THE TAXPAYER FILES THE TAX
21 CREDIT CERTIFICATE WITH THE INCOME TAX RETURN FILED WITH THE
22 DEPARTMENT OF REVENUE.

23 (3) FOR CONSERVATION EASEMENTS DONATED PRIOR TO JANUARY
24 1, 2014, in order for any taxpayer to qualify for the credit provided for in
25 subsection (2) of this section, the taxpayer shall submit the following in
26 a form approved by the executive director to the department of revenue
27 at the same time as the taxpayer files a return for the taxable year in

1 which the credit is claimed:

2 (3.3) The appraisal for a conservation easement in gross DONATED
3 PRIOR TO JANUARY 1, 2014, AND for which a credit is claimed shall be a
4 qualified appraisal from a qualified appraiser, as those terms are defined
5 in section 170 (f) (11) of the internal revenue code. The appraisal shall be
6 in conformance with the uniform standards ~~for~~ OF professional appraisal
7 practice promulgated by the appraisal standards board of the appraisal
8 foundation and any other provision of law. The appraiser shall hold a
9 valid license as a certified general appraiser in accordance with the
10 provisions of part 7 of article 61 of title 12, C.R.S. The appraiser shall
11 also meet any education and experience requirements established by the
12 board of real estate appraisers in accordance with section 12-61-719 (7),
13 C.R.S. If there is a final determination, other than by settlement of the
14 taxpayer, that an appraisal submitted in connection with a claim for a
15 credit pursuant to this section is a substantial or gross valuation
16 misstatement as such misstatements are defined in section 1219 of the
17 federal "Pension Protection Act of 2006", Pub.L. 109-280, the department
18 shall submit a complaint regarding the misstatement to the board of real
19 estate appraisers for disciplinary action in accordance with the provisions
20 of part 7 of article 61 of title 12, C.R.S.

21 (3.5) (a) FOR CONSERVATION EASEMENTS DONATED PRIOR TO
22 JANUARY 1, 2014:

23 (I) The executive director shall have the authority, pursuant to
24 subsection (8) of this section, to require additional information from the
25 taxpayer or transferee regarding the appraisal value of the easement, the
26 amount of the credit, and the validity of the credit. In resolving disputes
27 regarding the validity or the amount of a credit allowed pursuant to

1 subsection (2) of this section, including the value of the conservation
2 easement for which the credit is granted, the executive director shall have
3 the authority, for good cause shown and in consultation with the division
4 of real estate and the conservation easement oversight commission
5 created in section 12-61-721 (1), C.R.S., to review and accept or reject,
6 in whole or in part, the appraisal value of the easement, the amount of the
7 credit, and the validity of the credit based upon the internal revenue code
8 and federal regulations in effect at the time of the donation. If the
9 executive director reasonably believes that the appraisal represents a gross
10 valuation misstatement, receives notice of such a valuation misstatement
11 from the division of real estate, or receives notice from the division of
12 real estate that an enforcement action has been taken by the board of real
13 estate appraisers against the appraiser, the executive director shall have
14 the authority to require the taxpayer to provide a second appraisal at the
15 expense of the taxpayer. The second appraisal shall be conducted by a
16 certified general appraiser in good standing and not affiliated with the
17 first appraiser that meets qualifications established by the division of real
18 estate. In the event the executive director rejects, in whole or in part, the
19 appraisal value of the easement, the amount of the credit, or the validity
20 of the credit, the procedures described in sections 39-21-103, 39-21-104,
21 39-21-104.5, and 39-21-105 shall apply.

22 ~~(b)~~ (II) In consultation with the division of real estate and the
23 conservation easement oversight commission created in section
24 12-61-721 (1), C.R.S., the executive director shall develop and implement
25 a separate process for the review by the department of revenue of gross
26 conservation easements. The review process shall be consistent with the
27 statutory obligations of the division and the commission and shall address

1 gross conservation easements for which the department of revenue has
2 been informed that an audit is being performed by the internal revenue
3 service. The executive director shall share information used in the review
4 of gross conservation easements with the division. Notwithstanding part
5 2 of article 72 of title 24, C.R.S., in order to protect the confidential
6 financial information of a taxpayer, the division and the commission shall
7 deny the right to inspect any information provided by the executive
8 director in accordance with this ~~paragraph (b)~~. ~~On or before January 1,~~
9 ~~2009, the executive director shall report to the general assembly on the~~
10 ~~status of the development and implementation of the process required by~~
11 ~~this paragraph (b)~~ SUBPARAGRAPH (II).

12 (b) FOR CONSERVATION EASEMENTS DONATED ON OR AFTER
13 JANUARY 1, 2014, AND SUBJECT TO THE RESTRICTIONS OF SECTION
14 12-61-723 (4), C.R.S., THE EXECUTIVE DIRECTOR SHALL HAVE THE
15 AUTHORITY, PURSUANT TO SUBSECTION (8) OF THIS SECTION, TO REQUIRE
16 ADDITIONAL INFORMATION FROM THE TAXPAYER OR TRANSFEREE
17 REGARDING THE AMOUNT OF THE CREDIT AND THE VALIDITY OF THE
18 CREDIT. IN RESOLVING DISPUTES REGARDING THE VALIDITY OR THE
19 AMOUNT OF A CREDIT ALLOWED PURSUANT TO SUBSECTION (2) OF THIS
20 SECTION, THE EXECUTIVE DIRECTOR SHALL HAVE THE AUTHORITY, FOR
21 GOOD CAUSE SHOWN, TO REVIEW AND ACCEPT OR REJECT, IN WHOLE OR IN
22 PART, THE AMOUNT OF THE CREDIT AND THE VALIDITY OF THE CREDIT
23 BASED UPON THE INTERNAL REVENUE CODE AND FEDERAL REGULATIONS
24 IN EFFECT AT THE TIME OF THE DONATION, EXCEPT THOSE REQUIREMENTS
25 FOR WHICH AUTHORITY IS GRANTED TO THE DIVISION OF REAL ESTATE, THE
26 DIRECTOR OF THE DIVISION OF REAL ESTATE, OR THE CONSERVATION
27 EASEMENT OVERSIGHT COMMISSION PURSUANT TO SECTION 12-61-723,

1 C.R.S.

2 (3.6) FOR CONSERVATION EASEMENTS DONATED ON OR AFTER
3 JANUARY 1, 2014, IN ORDER FOR ANY TAXPAYER TO QUALIFY FOR THE
4 CREDIT PROVIDED FOR IN SUBSECTION (2) OF THIS SECTION, THE TAXPAYER
5 MUST SUBMIT THE FOLLOWING IN A FORM, APPROVED BY THE EXECUTIVE
6 DIRECTOR, TO THE DEPARTMENT OF REVENUE AT THE SAME TIME AS THE
7 TAXPAYER FILES A RETURN FOR THE TAXABLE YEAR IN WHICH THE CREDIT
8 IS CLAIMED:

9 (a) (I) A TAX CREDIT CERTIFICATE ISSUED UNDER SECTION
10 12-61-723, C.R.S.; AND

11 (II) THE INFORMATION REQUIRED IN SUBSECTIONS (3) (a), (3) (b),
12 (3) (d), AND (3) (f) (II) OF THIS SECTION.

13 (b) NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW, THE
14 EXECUTIVE DIRECTOR RETAINS THE AUTHORITY TO ADMINISTER ALL
15 ISSUES RELATED TO THE CLAIM OR USE OF A TAX CREDIT FOR THE
16 DONATION OF A CONSERVATION EASEMENT THAT ARE NOT GRANTED TO
17 THE DIRECTOR OF THE DIVISION OF REAL ESTATE OR THE CONSERVATION
18 EASEMENT OVERSIGHT COMMISSION UNDER SECTION 12-61-723, C.R.S.

19 (c) THE INFORMATION REQUIRED IN PARAGRAPH (f) OF SUBSECTION
20 (3) OF THIS SECTION WILL NO LONGER BE REQUIRED FROM THE HOLDER OF
21 THE CONSERVATION EASEMENT.

22 (6) (a) FOR CONSERVATION EASEMENTS DONATED PRIOR TO
23 JANUARY 1, 2014, a taxpayer may claim only one tax credit under this
24 section per income tax year; except that a transferee of a tax credit under
25 subsection (7) of this section may claim an unlimited number of credits.
26 A taxpayer who has carried forward or elected to receive a refund of part
27 of the tax credit in accordance with subsection (5) of this section shall not

1 claim an additional tax credit under this section for any income tax year
2 in which the taxpayer applies the amount carried forward against income
3 tax due or receives a refund. A taxpayer who has transferred a credit to
4 a transferee pursuant to subsection (7) of this section shall not claim an
5 additional tax credit under this section for any income tax year in which
6 the transferee uses such transferred credit.

7 (b) FOR CONSERVATION EASEMENTS DONATED ON OR AFTER
8 JANUARY 1, 2014, A TAXPAYER MAY CLAIM ONLY ONE TAX CREDIT UNDER
9 THIS SECTION PER INCOME TAX YEAR; EXCEPT THAT A TRANSFEREE OF A
10 TAX CREDIT UNDER SUBSECTION (7) OF THIS SECTION MAY CLAIM AN
11 UNLIMITED NUMBER OF CREDITS.

12 (10) On or before July 1, 2008, the department of revenue shall
13 create a report, which shall be made available to the public, on the credits
14 claimed in the previous year in accordance with this section. For each
15 credit claimed for a conservation easement in gross, the report shall
16 summarize by county where the easement is located, the acres under
17 easement, the appraised value of the easement, the donated value of the
18 easement, and the name of any holders of the easement; except that the
19 department shall combine such information for multiple counties where
20 necessary to ensure that the information for no fewer than three
21 easements is summarized for any county or combination of counties in the
22 report. The report shall be updated annually to reflect the same
23 information for any additional credits that have been granted since the
24 previous report. THIS REPORT SHALL NOT BE REQUIRED FOR
25 CONSERVATION EASEMENTS DONATED ON OR AFTER JANUARY 1, 2014.

26 (11) On or before December 31, 2007, the department of revenue
27 shall create a report, which shall be made available to the public, with as

1 much of the information specified in paragraph (c) of subsection (3) of
2 this section as is available to the department, summarized by county, for
3 each tax credit claimed for a conservation easement in gross for tax years
4 commencing on or after January 1, 2000. THIS REPORT SHALL NOT BE
5 REQUIRED FOR CONSERVATION EASEMENTS DONATED ON OR AFTER
6 JANUARY 1, 2014.

7 **SECTION 10.** In Colorado Revised Statutes, 39-22-522.5,
8 **amend** (5) (e) and (12) as follows:

9 **39-22-522.5. Conservation easement tax credits - dispute**
10 **resolution - legislative declaration.** (5) In order to expedite the
11 equitable resolution of requests for an administrative hearing regarding
12 any conservation easement tax credit, avoid inconsistent determinations,
13 and allow the executive director or the executive director's designee to
14 consider the full scope of applicable issues of law and fact, the executive
15 director or the executive director's designee shall have discretion to issue
16 orders as set forth in paragraphs (a) to (e) of this subsection (5) as
17 follows:

18 (e) If a tax matters representative has not provided any document
19 related to the credit that was required to be provided as part of the
20 taxpayer's return, including the return itself, or, if requested by the
21 department FOR CONSERVATION EASEMENTS DONATED PRIOR TO JANUARY
22 1, 2014, a copy of the complete appraisal obtained at the time of donation,
23 the department may send a written request to the taxpayer for such
24 document. Failure to provide the requested documents within sixty days
25 of any such request shall constitute grounds for the issuance of a final
26 determination denying the credit.

27 (12) (a) On or before July 1, 2011, and on a quarterly basis

1 thereafter, the executive director shall provide a report to the joint budget
2 committee and the finance committees of the general assembly
3 describing:

4 (a) (I) The number of tax credits claimed pursuant to section
5 39-22-522 for which the executive director mailed a notice of deficiency,
6 notice of rejection of refund claim, or notice of disallowance pursuant to
7 section 39-21-103;

8 (b) (II) The number of such cases sent to the conservation
9 easement oversight commission for review pursuant to section 12-61-721,
10 C.R.S.;

11 (c) (III) The number of such cases returned to the executive
12 director with the advice of the conservation easement oversight
13 commission created in section 12-61-721 (1), C.R.S., and the action, if
14 any, taken by the department of revenue on the cases returned by the
15 commission;

16 (d) (IV) The number and progress of any cases that are in a
17 mediation process and the status of such mediation;

18 (e) (V) The number of cases referred to the attorney general's
19 office for resolution;

20 (f) (VI) The number of cases finally resolved by the department
21 of revenue;

22 (g) (VII) The amount of deficient taxes, interest, and penalties
23 determined to be owed or waived by the department of revenue in
24 administering the resolution of cases;

25 (h) (VIII) The number and total amount of credits that were
26 originally contested but subsequently allowed to be claimed in full; and

27 (i) (IX) The amount of moneys expended by the department of

1 revenue in administering the resolution of cases.

2 (b) THE REPORTING REQUIREMENTS OF SUBPARAGRAPHS (II) AND
3 (III) OF PARAGRAPH (a) OF THIS SUBSECTION (12) SHALL NOT APPLY FOR
4 CONSERVATION EASEMENTS DONATED ON OR AFTER JANUARY 1, 2014.

5 **SECTION 11.** In Colorado Revised Statutes, **repeal** 24-33-112.

6 **SECTION 12. Appropriation - loan authorized.** (1) In addition
7 to any other appropriation, there is hereby appropriated, out of any
8 moneys in the conservation easement tax credit certificate review fund
9 created in section 12-61-723 (6), Colorado Revised Statutes, not
10 otherwise appropriated, to the department of regulatory agencies, for the
11 fiscal year beginning July 1, 2013, the sum of \$275,046 and 3.5 FTE, or
12 so much thereof as may be necessary, to be allocated for the
13 implementation of this act as follows:

14 (a) \$100,735 and 3.5 FTE to the division of real estate for
15 personal services;

16 (b) \$3,325 to the division of real estate for operating expenses;

17 (c) \$16,461 to the division of real estate for capital expenses;

18 (d) \$10,000 to the division of real estate for consulting;

19 (e) \$75,000 to the division of real estate for computer
20 programming; and

21 (f) \$69,525 to the executive director's office and administrative
22 services for the purchase of legal services.

23 (2) In addition to any other appropriation, there is hereby
24 appropriated to the department of law, for the fiscal year beginning July
25 1, 2013, the sum of \$69,525 and 0.5 FTE, or so much thereof as may be
26 necessary, for the provision of legal services for the department of
27 regulatory agencies related to the implementation of this act. Said sum is

1 from reappropriated funds received from the department of regulatory
2 agencies out of the appropriation made in paragraph (f) of subsection (1)
3 of this section.

4 (3) In addition to any other appropriation, there is hereby
5 appropriated, out of any moneys in the general fund not otherwise
6 appropriated, to the department of revenue, for the fiscal year beginning
7 July 1, 2013, the sum of \$48,000, or so much thereof as may be necessary,
8 for allocation to the taxation business group for computer programming
9 related to the implementation of this act.

10 (4) For the purpose of implementing this act prior to sufficient
11 moneys becoming available in the conservation easement tax credit
12 certificate review fund, the department of regulatory agencies may
13 borrow moneys from the general fund during the fiscal year beginning
14 July 1, 2013, in an amount up to the amount of the appropriation in
15 subsection (1) of this section, and the state treasurer shall transfer and
16 credit said sum to the conservation easement tax credit certificate review
17 fund. As moneys become available in the conservation easement tax
18 credit certificate review fund, the state treasurer shall transfer to the
19 general fund an amount equal to the borrowed moneys, without interest.

20 **SECTION 13. Act subject to petition - effective date -**
21 **applicability.** (1) Except as provided in subsection (2) of this section,
22 section 2 of this act and section 12-61-721 (1) (d) (V) as contained in
23 section 5 of this act take effect January 1, 2014, and the remainder of this
24 act takes effect at 12:01 a.m. on the day following the expiration of the
25 ninety-day period after final adjournment of the general assembly (August
26 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a
27 referendum petition is filed pursuant to section 1 (3) of article V of the

1 state constitution against this act or an item, section, or part of this act
2 within such period, then the act, item, section, or part will not take effect
3 unless approved by the people at the general election to be held in
4 November 2014 and, in such case, will take effect on the date of the
5 official declaration of the vote thereon by the governor.

6 (2) (a) Section 6 of this act takes effect only if House Bill 13-1183
7 does not become law.

8 (b) Section 7 of this act takes effect only if House Bill 13-1183
9 becomes law and take effect either upon the effective date of this act or
10 House Bill 13-1183, whichever is later.