

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

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

House Committees

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.**

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/billsummaries>.)

Legislative Audit Committee. Current law allows a landowner to claim a state income tax credit of up to \$375,000 for donating all or a

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.

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 (l) 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 (l) 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 (l)
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, **add** 12-61-723 as
14 follows:

15 **12-61-723. Conservation easement tax credit certificate**
16 **application process - conservation easement tax credit certificate**
17 **review fund - created - definitions.** (1) FOR PURPOSES OF THIS SECTION:

18 (a) "APPLICATION" MEANS AN APPLICATION FOR A TAX CREDIT
19 CERTIFICATE SUBMITTED PURSUANT TO SECTION 12-61-722 OR THIS
20 SECTION.

21 (b) "CONSERVATION PURPOSE" MEANS CONSERVATION PURPOSE AS
22 DEFINED IN SECTION 170 (h) OF THE FEDERAL "INTERNAL REVENUE CODE
23 OF 1986", AS AMENDED, AND ANY FEDERAL REGULATIONS PROMULGATED
24 IN CONNECTION WITH SUCH SECTION.

25 (c) "CREDIBILITY" MEANS THE RESULTS ARE WORTHY OF BELIEF
26 AND ARE SUPPORTED BY RELEVANT EVIDENCE AND LOGIC TO THE DEGREE
27 NECESSARY FOR THE INTENDED USE.

1 (d) "DEFICIENCY" MEANS NONCOMPLIANCE WITH A REQUIREMENT
2 FOR OBTAINING A TAX CREDIT CERTIFICATE THAT, UNLESS SUCH
3 NONCOMPLIANCE IS REMEDIED, IS GROUNDS FOR THE DENIAL OF A TAX
4 CREDIT CERTIFICATE APPLICATION SUBMITTED PURSUANT TO THIS
5 SECTION.

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

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

12 (g) "TAX CREDIT CERTIFICATE" MEANS THE CONSERVATION
13 EASEMENT TAX CREDIT CERTIFICATE ISSUED PURSUANT TO SECTION
14 12-61-722 AND THIS SECTION.

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

22 (I) IS A CONTRIBUTION OF A QUALIFIED REAL PROPERTY INTEREST
23 TO A QUALIFIED ORGANIZATION TO BE USED EXCLUSIVELY FOR A
24 CONSERVATION PURPOSE;

25 (II) IS SUBSTANTIATED WITH A QUALIFIED APPRAISAL PREPARED BY
26 A QUALIFIED APPRAISER IN ACCORDANCE WITH THE UNIFORM STANDARDS
27 OF PROFESSIONAL APPRAISAL PRACTICE; AND

1 (III) COMPLIES WITH THE REQUIREMENTS SET FORTH IN THIS
2 SECTION.

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

5 (3) FOR THE PURPOSE OF REVIEWING APPLICATIONS AND MAKING
6 DETERMINATIONS REGARDING THE ISSUANCE OF TAX CREDIT
7 CERTIFICATES, INCLUDING THE DOLLAR AMOUNT OF THE TAX CREDIT
8 CERTIFICATE TO BE ISSUED:

9 (a) DIVISION STAFF SHALL REVIEW EACH APPLICATION AND ADVISE
10 AND MAKE RECOMMENDATIONS TO THE DIRECTOR AND THE COMMISSION
11 REGARDING THE APPLICATION;

12 (b) THE DIRECTOR HAS AUTHORITY AND RESPONSIBILITY TO
13 DETERMINE THE CREDIBILITY OF THE APPRAISAL. IN DETERMINING
14 CREDIBILITY, THE DIRECTOR SHALL CONSIDER, AT A MINIMUM,
15 COMPLIANCE WITH THE FOLLOWING REQUIREMENTS:

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

22 (II) THE APPRAISAL CONFORMS WITH THE UNIFORM STANDARDS OF
23 PROFESSIONAL APPRAISAL PRACTICE PROMULGATED BY THE APPRAISAL
24 STANDARDS BOARD OF THE APPRAISAL FOUNDATION AND ANY OTHER
25 PROVISION OF LAW.

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

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

4 (c) THE DIRECTOR SHALL HAVE THE AUTHORITY AND
5 RESPONSIBILITY TO DETERMINE COMPLIANCE WITH THE REQUIREMENTS OF
6 SECTION 12-61-720.

7 (d) THE COMMISSION SHALL HAVE THE AUTHORITY AND
8 RESPONSIBILITY TO DETERMINE WHETHER A CONSERVATION EASEMENT
9 DONATION FOR WHICH A TAX CREDIT IS CLAIMED PURSUANT TO SECTION
10 39-22-522, C.R.S., IS A QUALIFIED CONSERVATION CONTRIBUTION AS
11 DEFINED IN SECTION 170 (h) OF THE FEDERAL "INTERNAL REVENUE CODE
12 OF 1986", AS AMENDED, AND ANY FEDERAL REGULATIONS PROMULGATED
13 IN CONNECTION WITH SUCH SECTION.

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

19 (5) A COMPLETE TAX CREDIT CERTIFICATE APPLICATION MUST BE
20 MADE BY THE LANDOWNER TO THE DIVISION AND MUST INCLUDE THE
21 FOLLOWING:

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

23 (b) A COPY OF THE RECORDED DEED GRANTING THE
24 CONSERVATION EASEMENT;

25 (c) DOCUMENTATION SUPPORTING THE CONSERVATION PURPOSE
26 OF THE EASEMENT;

27 (d) ANY OTHER INFORMATION OR DOCUMENTATION THE DIRECTOR

1 OR THE COMMISSION DEEMS NECESSARY TO MAKE A FINAL
2 DETERMINATION REGARDING THE APPLICATION; AND

3 (e) THE FEE REQUIRED PURSUANT TO SUBSECTION (6) OF THIS
4 SECTION.

5 (6) A LANDOWNER SUBMITTING AN APPLICATION FOR A TAX
6 CREDIT CERTIFICATE PURSUANT TO THIS SECTION OR AN APPLICATION FOR
7 AN OPTIONAL PRELIMINARY ADVISORY OPINION PURSUANT TO SUBSECTION
8 (14) OF THIS SECTION SHALL PAY THE DIVISION A FEE AS PRESCRIBED BY
9 THE DIVISION. THE APPLICATION FEE FOR AN OPTIONAL PRELIMINARY
10 ADVISORY OPINION MAY BE A DIFFERENT DOLLAR AMOUNT THAN THE
11 APPLICATION FEE FOR A TAX CREDIT CERTIFICATE. THE FEES MUST COVER
12 THE COSTS OF THE DIVISION AND THE COMMISSION IN ADMINISTERING THE
13 REQUIREMENTS OF THIS SECTION. THE STATE TREASURER SHALL CREDIT
14 THE FEES COLLECTED PURSUANT TO THIS SUBSECTION (6) TO THE
15 CONSERVATION EASEMENT TAX CREDIT CERTIFICATE REVIEW FUND, WHICH
16 FUND IS HEREBY CREATED IN THE STATE TREASURY. THE GENERAL
17 ASSEMBLY SHALL ANNUALLY APPROPRIATE MONEYS IN THE FUND TO THE
18 DIVISION FOR THE PURPOSES OF IMPLEMENTING AND ADMINISTERING THIS
19 SECTION. THE MONEYS SHALL NOT REVERT TO THE GENERAL FUND AT THE
20 END OF ANY FISCAL YEAR. THE FUND SHALL BE MAINTAINED IN
21 ACCORDANCE WITH SECTION 24-75-402, C.R.S. ON OR BEFORE JANUARY
22 1, 2014, AND ON OR BEFORE EACH JANUARY 1 THEREAFTER, THE DIVISION
23 SHALL CERTIFY TO THE GENERAL ASSEMBLY THE AMOUNT OF ANY FEES
24 PRESCRIBED BY THE DIVISION PURSUANT TO THIS SUBSECTION (6).

25 (7) (a) IF, DURING THE REVIEW OF AN APPLICATION FOR A TAX
26 CREDIT CERTIFICATE, THE DIRECTOR OR THE COMMISSION IDENTIFIES ANY
27 POTENTIAL DEFICIENCIES, SUCH POTENTIAL DEFICIENCIES MUST BE

1 DOCUMENTED IN A LETTER SENT TO THE LANDOWNER BY FIRST CLASS
2 MAIL. THE DIVISION SHALL SEND LETTERS DOCUMENTING POTENTIAL
3 DEFICIENCIES TO LANDOWNERS IN A TIMELY MANNER SUCH THAT THE
4 AVERAGE NUMBER OF DAYS BETWEEN THE DATE A COMPLETED
5 APPLICATION IS RECEIVED BY THE DIVISION AND THE MAILING DATE OF THE
6 DIVISION'S LETTER TO THE LANDOWNER DOES NOT EXCEED ONE HUNDRED
7 TWENTY DAYS.

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

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

19 (d) THE DEADLINES PRESCRIBED BY THIS SUBSECTION (7) MAY BE
20 EXTENDED UPON MUTUAL AGREEMENT BETWEEN THE DIRECTOR AND THE
21 COMMISSION AND THE LANDOWNER.

22 (8) THE DIRECTOR OR THE COMMISSION MAY DENY AN
23 APPLICATION IF THE LANDOWNER:

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

27 (b) DOES NOT PROVIDE THE INFORMATION AND DOCUMENTATION

1 REQUIRED PURSUANT TO THIS PART 7; OR

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

4 (9) IF THE DIRECTOR REASONABLY BELIEVES THAT ANY APPRAISAL
5 SUBMITTED IN ACCORDANCE WITH THIS SECTION IS NOT CREDIBLE, THE
6 DIRECTOR SHALL HAVE THE AUTHORITY, AFTER CONSULTATION WITH THE
7 COMMISSION, TO REQUIRE THE LANDOWNER, AT THE LANDOWNER'S
8 EXPENSE, TO OBTAIN EITHER A REVISED APPRAISAL OR A SECOND
9 APPRAISAL FROM AN APPRAISER WHO MEETS THE REQUIREMENTS OF THIS
10 PART 7 AND IS IN GOOD STANDING WITH THE BOARD BEFORE MAKING A
11 FINAL DETERMINATION REGARDING THE APPLICATION.

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

23 (11) (a) IF ALL POTENTIAL DEFICIENCIES THAT HAVE BEEN
24 IDENTIFIED ARE SUBSEQUENTLY ADDRESSED TO THE SATISFACTION OF THE
25 DIRECTOR AND THE COMMISSION, THE DIRECTOR AND THE COMMISSION
26 SHALL APPROVE THE APPLICATION AND THE DIVISION SHALL ISSUE A TAX
27 CREDIT CERTIFICATE TO THE LANDOWNER PURSUANT TO SECTION

1 12-61-722. ONCE A TAX CREDIT CERTIFICATE IS ISSUED, THE LANDOWNER
2 MAY CLAIM AND USE THE TAX CREDIT SUBJECT TO ANY OTHER APPLICABLE
3 PROCEDURES AND REQUIREMENTS UNDER TITLE 39, C.R.S.

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

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

20 (b) IF THE LANDOWNER FAILS TO APPEAL THE DENIAL OF AN
21 APPLICATION WITHIN THIRTY DAYS OF THE ISSUANCE OF THE DENIAL, THE
22 DENIAL BECOMES FINAL AND NO TAX CREDIT CERTIFICATE SHALL BE
23 ISSUED.

24 (c) ADMINISTRATIVE HEARINGS MUST BE CONDUCTED IN
25 ACCORDANCE WITH SECTION 24-4-105, C.R.S. AT THE DISCRETION OF THE
26 DIRECTOR, HEARINGS MAY BE CONDUCTED BY AN AUTHORIZED
27 REPRESENTATIVE OF THE DIRECTOR OR THE COMMISSION OR AN

1 ADMINISTRATIVE LAW JUDGE FROM THE OFFICE OF ADMINISTRATIVE
2 COURTS IN THE DEPARTMENT OF PERSONNEL. ALL HEARINGS WILL BE HELD
3 IN THE COUNTY WHERE THE DIVISION IS LOCATED UNLESS THE DIRECTOR
4 DESIGNATES OTHERWISE. THE DECISION OF THE DIRECTOR OR THE
5 COMMISSION IS SUBJECT TO JUDICIAL REVIEW BY THE COURT OF APPEALS
6 AND IS SUBJECT TO THE PROVISIONS OF SECTION 24-4-106, C.R.S.

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

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

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

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

24 (b) FOR APPLICATIONS APPROVED IN ACCORDANCE WITH THIS
25 SECTION:

26 (I) THE TOTAL ACREAGE UNDER EASEMENT SUMMARIZED BY THE
27 ALLOWABLE CONSERVATION PURPOSES AS DEFINED IN SECTION 170(h) OF

1 THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, AND
2 ANY FEDERAL REGULATIONS PROMULGATED IN CONNECTION WITH SUCH
3 SECTION;

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

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

6 (IV) THE TOTAL DOLLAR AMOUNT OF TAX CREDIT CERTIFICATES
7 ISSUED; AND

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

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

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

26 (c) THE DIRECTOR OR THE COMMISSION MAY REQUEST THAT THE
27 LANDOWNER SUBMIT ADDITIONAL INFORMATION OR DOCUMENTATION

1 THAT THE DIRECTOR OR THE COMMISSION DEEMS NECESSARY TO
2 COMPLETE THE REVIEW AND ISSUE AN OPINION.

3 (d) A NONFAVORABLE OPINION SHALL SET FORTH ANY POTENTIAL
4 DEFICIENCIES IDENTIFIED BY THE DIRECTOR OR THE COMMISSION AND
5 THAT FALL WITHIN THE SCOPE OF THE DIRECTOR'S AND THE COMMISSION'S
6 REVIEW OF THE CONSERVATION EASEMENT TRANSACTION. THE
7 PRELIMINARY OPINION IS ADVISORY ONLY AND IS NOT BINDING FOR ANY
8 PURPOSE UPON THE DIVISION, THE DIRECTOR, THE COMMISSION, OR THE
9 DEPARTMENT OF REVENUE.

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

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

1 DIVISION, THE DIRECTOR, AND THE COMMISSION SHALL HAVE THE
2 AUTHORITY TO SHARE DOCUMENTATION OR OTHER RECORDS RELATED TO
3 INFORMATION OBTAINED PURSUANT TO THIS SECTION WITH THE
4 DEPARTMENT OF REVENUE.

5 (17) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO AFFECT
6 ANY TAX CREDIT THAT IS CLAIMED OR USED PURSUANT TO SECTION
7 39-22-522, C.R.S., FOR CONSERVATION EASEMENT DONATIONS
8 OCCURRING PRIOR TO JANUARY 1, 2014.

9 **SECTION 8.** In Colorado Revised Statutes, 39-22-522, **amend**
10 (2), (2.5), (3) introductory portion, (3.3), (3.5), (10), and (11); and **add**
11 (2.7) and (3.6) as follows:

12 **39-22-522. Credit against tax - conservation easements.**

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

1 located in another state.

2 (b) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
3 1, 2014, AND, WITH REGARD TO ANY CREDIT OVER THE AMOUNT OF ONE
4 HUNDRED THOUSAND DOLLARS, FOR INCOME TAX YEARS COMMENCING ON
5 OR AFTER JANUARY 1, 2003, SUBJECT TO THE PROVISIONS OF SUBSECTIONS
6 (4) AND (6) OF THIS SECTION, THERE SHALL BE ALLOWED A CREDIT WITH
7 RESPECT TO THE INCOME TAXES IMPOSED BY THIS ARTICLE TO EACH
8 TAXPAYER WHO DONATES DURING THE TAXABLE YEAR ALL OR PART OF
9 THE VALUE OF A PERPETUAL CONSERVATION EASEMENT IN GROSS CREATED
10 PURSUANT TO ARTICLE 30.5 OF TITLE 38, C.R.S., UPON REAL PROPERTY
11 THE TAXPAYER OWNS TO A GOVERNMENTAL ENTITY OR A CHARITABLE
12 ORGANIZATION DESCRIBED IN SECTION 38-30.5-104 (2), C.R.S. THE
13 CREDIT SHALL ONLY BE ALLOWED FOR A DONATION THAT MEETS THE
14 REQUIREMENTS OF SECTION 170 OF THE FEDERAL "INTERNAL REVENUE
15 CODE OF 1986", AS AMENDED, AND ANY FEDERAL REGULATIONS
16 PROMULGATED IN ACCORDANCE WITH SUCH SECTION. THE AMOUNT OF THE
17 CREDIT SHALL NOT INCLUDE THE VALUE OF ANY PORTION OF AN EASEMENT
18 ON REAL PROPERTY LOCATED IN ANOTHER STATE.

19 (2.5) Notwithstanding any other provision of this section AND THE
20 REQUIREMENTS OF SECTION 12-61-723, C.R.S., for income tax years
21 commencing during the 2011, 2012, and 2013 calendar years, a taxpayer
22 conveying a conservation easement in 2011, 2012, or 2013 and claiming
23 a credit pursuant to this section shall, in addition to any other
24 requirements of this section AND THE REQUIREMENTS OF SECTION
25 12-61-723, C.R.S., submit a claim for the credit to the division of real
26 estate in the department of regulatory agencies. The division shall issue
27 a certificate for the claims received in the order submitted. After

1 certificates have been issued for credits that exceed an aggregate of
2 twenty-two million dollars for all taxpayers for income tax years
3 commencing in each of the 2011 and 2012 calendar years and thirty-four
4 million dollars for each income tax year commencing in the 2013
5 calendar year, any claims that exceed the amount allowed for a specified
6 calendar year shall be placed on a wait list in the order submitted and a
7 certificate shall be issued for use of the credit in 2012 or 2013. The
8 division shall not issue credit certificates that exceed twenty-two million
9 dollars for each income tax year commencing in the 2011 and 2012
10 calendar years and thirty-four million dollars for each income tax year
11 commencing in the 2013 calendar year. No claim for a credit shall be
12 allowed for any income tax year commencing during the 2011, 2012, or
13 2013 calendar years unless a certificate has been issued by the division.
14 PROVIDED THAT ALL OTHER REQUIREMENTS UNDER SECTION 12-61-723,
15 C.R.S, AND THIS SECTION ARE MET, the right to claim the credit shall be
16 vested in the taxpayer at the time a credit certificate is issued. The
17 division may promulgate rules in accordance with article 4 of title 24,
18 C.R.S., for the issuance of certificates in accordance with this subsection
19 (2.5).

20 (2.7) NOTWITHSTANDING ANY OTHER PROVISION, FOR INCOME TAX
21 YEARS COMMENCING ON OR AFTER JANUARY 1, 2014, NO CLAIM FOR A
22 CREDIT SHALL BE ALLOWED UNLESS A TAX CREDIT CERTIFICATE IS ISSUED
23 BY THE DIVISION OF REAL ESTATE IN ACCORDANCE WITH SECTIONS
24 12-61-722 AND 12-61-723, C.R.S., AND THE TAXPAYER FILES THE TAX
25 CREDIT CERTIFICATE WITH THE INCOME TAX RETURN FILED WITH THE
26 DEPARTMENT OF REVENUE.

27 (3) FOR CONSERVATION EASEMENTS DONATED PRIOR TO JANUARY

1 1, 2014, in order for any taxpayer to qualify for the credit provided for in
2 subsection (2) of this section, the taxpayer shall submit the following in
3 a form approved by the executive director to the department of revenue
4 at the same time as the taxpayer files a return for the taxable year in
5 which the credit is claimed:

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

25 (3.5) (a) FOR CONSERVATION EASEMENTS DONATED PRIOR TO
26 JANUARY 1, 2014:

27 (I) The executive director shall have the authority, pursuant to

1 subsection (8) of this section, to require additional information from the
2 taxpayer or transferee regarding the appraisal value of the easement, the
3 amount of the credit, and the validity of the credit. In resolving disputes
4 regarding the validity or the amount of a credit allowed pursuant to
5 subsection (2) of this section, including the value of the conservation
6 easement for which the credit is granted, the executive director shall have
7 the authority, for good cause shown and in consultation with the division
8 of real estate and the conservation easement oversight commission
9 created in section 12-61-721 (1), C.R.S., to review and accept or reject,
10 in whole or in part, the appraisal value of the easement, the amount of the
11 credit, and the validity of the credit based upon the internal revenue code
12 and federal regulations in effect at the time of the donation. If the
13 executive director reasonably believes that the appraisal represents a gross
14 valuation misstatement, receives notice of such a valuation misstatement
15 from the division of real estate, or receives notice from the division of
16 real estate that an enforcement action has been taken by the board of real
17 estate appraisers against the appraiser, the executive director shall have
18 the authority to require the taxpayer to provide a second appraisal at the
19 expense of the taxpayer. The second appraisal shall be conducted by a
20 certified general appraiser in good standing and not affiliated with the
21 first appraiser that meets qualifications established by the division of real
22 estate. In the event the executive director rejects, in whole or in part, the
23 appraisal value of the easement, the amount of the credit, or the validity
24 of the credit, the procedures described in sections 39-21-103, 39-21-104,
25 39-21-104.5, and 39-21-105 shall apply.

26 (b) (II) In consultation with the division of real estate and the
27 conservation easement oversight commission created in section

1 12-61-721 (1), C.R.S., the executive director shall develop and implement
2 a separate process for the review by the department of revenue of gross
3 conservation easements. The review process shall be consistent with the
4 statutory obligations of the division and the commission and shall address
5 gross conservation easements for which the department of revenue has
6 been informed that an audit is being performed by the internal revenue
7 service. The executive director shall share information used in the review
8 of gross conservation easements with the division. Notwithstanding part
9 2 of article 72 of title 24, C.R.S., in order to protect the confidential
10 financial information of a taxpayer, the division and the commission shall
11 deny the right to inspect any information provided by the executive
12 director in accordance with this ~~paragraph (b)~~. ~~On or before January 1,~~
13 ~~2009, the executive director shall report to the general assembly on the~~
14 ~~status of the development and implementation of the process required by~~
15 ~~this paragraph (b)~~ SUBPARAGRAPH (II).

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

1 IN EFFECT AT THE TIME OF THE DONATION, EXCEPT THOSE REQUIREMENTS
2 FOR WHICH AUTHORITY IS GRANTED TO THE DIVISION OF REAL ESTATE, THE
3 DIRECTOR OF THE DIVISION OF REAL ESTATE, OR THE CONSERVATION
4 EASEMENT OVERSIGHT COMMISSION PURSUANT TO SECTION 12-61-723,
5 C.R.S.

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

13 (a) (I) A TAX CREDIT CERTIFICATE ISSUED UNDER SECTION
14 12-61-723, C.R.S.; AND

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

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

23 (10) On or before July 1, 2008, the department of revenue shall
24 create a report, which shall be made available to the public, on the credits
25 claimed in the previous year in accordance with this section. For each
26 credit claimed for a conservation easement in gross, the report shall
27 summarize by county where the easement is located, the acres under

1 easement, the appraised value of the easement, the donated value of the
2 easement, and the name of any holders of the easement; except that the
3 department shall combine such information for multiple counties where
4 necessary to ensure that the information for no fewer than three
5 easements is summarized for any county or combination of counties in the
6 report. The report shall be updated annually to reflect the same
7 information for any additional credits that have been granted since the
8 previous report. THIS REPORT SHALL NOT BE REQUIRED FOR
9 CONSERVATION EASEMENTS DONATED ON OR AFTER JANUARY 1, 2014.

10 (11) On or before December 31, 2007, the department of revenue
11 shall create a report, which shall be made available to the public, with as
12 much of the information specified in paragraph (c) of subsection (3) of
13 this section as is available to the department, summarized by county, for
14 each tax credit claimed for a conservation easement in gross for tax years
15 commencing on or after January 1, 2000. THIS REPORT SHALL NOT BE
16 REQUIRED FOR CONSERVATION EASEMENTS DONATED ON OR AFTER
17 JANUARY 1, 2014.

18 **SECTION 9.** In Colorado Revised Statutes, 39-22-522.5, **amend**
19 (5) (e) and (12) as follows:

20 **39-22-522.5. Conservation easement tax credits - dispute**
21 **resolution - legislative declaration.** (5) In order to expedite the
22 equitable resolution of requests for an administrative hearing regarding
23 any conservation easement tax credit, avoid inconsistent determinations,
24 and allow the executive director or the executive director's designee to
25 consider the full scope of applicable issues of law and fact, the executive
26 director or the executive director's designee shall have discretion to issue
27 orders as set forth in paragraphs (a) to (e) of this subsection (5) as

1 follows:

2 (e) If a tax matters representative has not provided any document
3 related to the credit that was required to be provided as part of the
4 taxpayer's return, including the return itself, or, if requested by the
5 department FOR CONSERVATION EASEMENTS DONATED PRIOR TO JANUARY
6 1, 2014, a copy of the complete appraisal obtained at the time of donation,
7 the department may send a written request to the taxpayer for such
8 document. Failure to provide the requested documents within sixty days
9 of any such request shall constitute grounds for the issuance of a final
10 determination denying the credit.

11 (12) (a) On or before July 1, 2011, and on a quarterly basis
12 thereafter, the executive director shall provide a report to the joint budget
13 committee and the finance committees of the general assembly
14 describing:

15 (a) (I) The number of tax credits claimed pursuant to section
16 39-22-522 for which the executive director mailed a notice of deficiency,
17 notice of rejection of refund claim, or notice of disallowance pursuant to
18 section 39-21-103;

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

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

27 (d) (IV) The number and progress of any cases that are in a

1 mediation process and the status of such mediation;

2 ~~(e)~~ (V) The number of cases referred to the attorney general's
3 office for resolution;

4 ~~(f)~~ (VI) The number of cases finally resolved by the department
5 of revenue;

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

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

11 ~~(i)~~ (IX) The amount of moneys expended by the department of
12 revenue in administering the resolution of cases.

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

16 **SECTION 10.** In Colorado Revised Statutes, **repeal** 24-33-112.

17 **SECTION 11. Appropriation - loan authorized.** (1) In addition
18 to any other appropriation, there is hereby appropriated, out of any
19 moneys in the conservation easement tax credit certificate review fund
20 created in section 12-61-723, Colorado Revised Statutes, not otherwise
21 appropriated, to the department of regulatory agencies, for the fiscal year
22 beginning July 1, 2013, the sum of \$_____, or so much thereof as may be
23 necessary, for the implementation of this act.

24 (2) For the purpose of implementing this act prior to sufficient
25 moneys becoming available in the conservation easement tax credit
26 certificate review fund, the department of regulatory agencies may
27 borrow moneys from the general fund during the fiscal year beginning

1 July 1, 2013, in an amount up to the amount of the appropriation in
2 subsection (1) of this section, and the state treasurer shall transfer and
3 credit said sum to the conservation easement tax credit certificate review
4 fund. As moneys become available in the conservation easement tax
5 credit certificate review fund, the state treasurer shall transfer to the
6 general fund an amount equal to the borrowed moneys, without interest.

7 **SECTION 12. Act subject to petition - effective date -**
8 **applicability.** Section 2 of this act and section 12-61-721 (1) (d) (V) as
9 contained in section 5 of this act take effect January 1, 2014, and the
10 remainder of this act takes effect at 12:01 a.m. on the day following the
11 expiration of the ninety-day period after final adjournment of the general
12 assembly (August 7, 2013, if adjournment sine die is on May 8, 2013);
13 except that, if a referendum petition is filed pursuant to section 1 (3) of
14 article V of the state constitution against this act or an item, section, or
15 part of this act within such period, then the act, item, section, or part will
16 not take effect unless approved by the people at the general election to be
17 held in November 2014 and, in such case, will take effect on the date of
18 the official declaration of the vote thereon by the governor.