

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 18-0394.01 Gregg Fraser x4325

HOUSE BILL 18-1291

HOUSE SPONSORSHIP

Winter and Thurlow,

SENATE SPONSORSHIP

Sonnenberg,

House Committees

Transportation & Energy
Appropriations

Senate Committees

State, Veterans, & Military Affairs
Finance
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE CONTINUATION OF THE CONSERVATION EASEMENT**
102 **OVERSIGHT COMMISSION, AND, IN CONNECTION THEREWITH,**
103 **IMPLEMENTING THE RECOMMENDATIONS OF THE 2017 SUNSET**
104 **REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES.**

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://leg.colorado.gov/>.)

Sunset Process - House Transportation and Energy Committee. The bill implements the recommendations of the department of regulatory agencies in its sunset review of the conservation easement

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

HOUSE
3rd Reading Unamended
April 27, 2018

HOUSE
Amended 2nd Reading
April 24, 2018

oversight commission by extending the repeal date of the commission for 7 years until 2025 (*Recommendation 2*). The bill modifies the composition of the commission and reduces the number of members on the commission from in 7 to 5 members in accordance with *Recommendation 3*; except that it retains the current member representing the great outdoors Colorado program and adds one member of the general public rather than two.

The commission is currently a **type 2** entity, which means its powers, duties, and functions belong to the executive director of the department of regulatory agencies. The bill changes the commission to a **type 1** entity, allowing the commission to exercise its powers, duties, and functions independently.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 11 to article
3 61 of title 12 as follows:

4 PART 11

5 CONSERVATION EASEMENTS

6 **12-61-1101. Legislative declaration. (1)** THE GENERAL
7 ASSEMBLY FINDS, DETERMINES, AND DECLARES THAT:

8 (a) COLORADO'S CONSERVATION EASEMENT PROGRAM IS AN
9 IMPORTANT PRESERVATION TOOL USED TO BALANCE ECONOMIC NEEDS
10 WITH NATURAL RESOURCES SUCH AS LAND AND WATER PRESERVATION.
11 COLORADO'S CONSERVATION EASEMENT TAX CREDIT AND THE FEDERAL
12 TAX DEDUCTION HAVE ALLOWED MANY FARMERS AND RANCHERS THE
13 OPPORTUNITY TO DONATE THEIR DEVELOPMENT RIGHTS TO PRESERVE A
14 LEGACY OF OPEN SPACES IN COLORADO FOR WILDLIFE, AGRICULTURE, AND
15 RANCHING.

16 (b) CITIZENS THROUGHOUT COLORADO BELIEVE GOOD, SOUND
17 CONSERVATION PRACTICES ARE IMPORTANT TO COLORADO'S QUALITY OF
18 LIFE, AGRICULTURE, AND NATURAL HERITAGE;

19 (c) COLORADO'S CONSERVATION EASEMENT TAX CREDIT PROGRAM

1 WAS DESIGNED TO GIVE LANDOWNERS AN INCENTIVE TO CONSERVE AND
2 PRESERVE THEIR LAND IN A PREDOMINANTLY NATURAL, SCENIC, OR OPEN
3 CONDITION;

4 (d) CREATING A DIVISION OF CONSERVATION WITHIN THE
5 DEPARTMENT OF REGULATORY AGENCIES WILL KEEP A FIREWALL BETWEEN
6 PROFESSIONAL EVALUATION AND PROFESSIONAL DISCIPLINE, WHILE
7 CREATING A DIVISION TO ENSURE THIS PROGRAM ALLOWS LANDOWNERS
8 TO EXERCISE THEIR PRIVATE PROPERTY RIGHTS WHILE PROTECTING
9 TAXPAYERS FROM THE FRAUD AND ABUSE THAT EXISTED IN THE PROGRAM
10 PRIOR TO 2009;

11 (e) IN RECOGNITION OF THE FRAUD AND ABUSE THAT HAS EXISTED
12 IN THE PROGRAM, IT IS APPROPRIATE TO ALLOW AN EASEMENT TO BE
13 EXTINGUISHED IF THE VALUE OF THE EASEMENT IS REDUCED OR
14 ELIMINATED BY THE STATE IN CONNECTION WITH CLAIMING A TAX CREDIT
15 FOR THE EASEMENT AND THE CREDIT IS DISALLOWED OR ANY AMOUNT
16 ALLOWED IS NOT CLAIMED OR IS REPAID BY A LANDOWNER;

17 (f) ESTABLISHING THE DIVISION OF CONSERVATION TO ADMINISTER
18 THE CONSERVATION EASEMENT TAX CREDIT PROGRAM WILL:

19 (I) ALLOW THE DIVISION TO CONTINUE TO CERTIFY CONSERVATION
20 EASEMENT HOLDERS TO IDENTIFY FRAUDULENT OR UNQUALIFIED
21 ORGANIZATIONS AND PREVENT THEM FROM HOLDING CONSERVATION
22 EASEMENTS FOR WHICH TAX CREDITS ARE CLAIMED IN THE STATE;

23 (II) ALLOW THE CONSERVATION EASEMENT OVERSIGHT
24 COMMISSION TO ADVISE THE DIVISION OF CONSERVATION AND THE
25 DEPARTMENT OF REVENUE REGARDING CONSERVATION EASEMENTS FOR
26 WHICH A TAX CREDIT IS CLAIMED AND TO REVIEW APPLICATIONS FOR
27 CONSERVATION EASEMENT HOLDER CERTIFICATION; AND

1 (III) ENSURE THAT THE DIVISION OF CONSERVATION AND THE
2 DEPARTMENT OF REVENUE ARE SHARING RELEVANT INFORMATION
3 CONCERNING CONSERVATION EASEMENT APPRAISALS IN ORDER TO ENSURE
4 COMPLIANCE WITH ACCEPTED APPRAISAL PRACTICES AND OTHER
5 PROVISIONS OF LAW.

6 **12-61-1102. Division of conservation - director.** (1) THE
7 EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REGULATORY AGENCIES IS
8 AUTHORIZED BY THIS SECTION TO EMPLOY, SUBJECT TO THE PROVISIONS
9 OF THE STATE PERSONNEL SYSTEM LAWS OF THE STATE, A DIRECTOR OF
10 THE DIVISION OF CONSERVATION, REFERRED TO IN THIS PART 11 AS THE
11 "DIVISION", WHO IN TURN SHALL EMPLOY SUCH DEPUTIES, CLERKS, AND
12 ASSISTANTS AS ARE NECESSARY TO DISCHARGE THE DUTIES IMPOSED BY
13 THIS PART 11. THE DIVISION OF CONSERVATION, WHICH IS A DIVISION IN
14 THE DEPARTMENT OF REGULATORY AGENCIES, AND THE DIRECTOR OF THE
15 DIVISION SHALL EXERCISE THEIR POWERS AND PERFORM THEIR DUTIES AND
16 FUNCTIONS UNDER THE DEPARTMENT OF REGULATORY AGENCIES AS IF
17 THEY WERE TRANSFERRED TO THE DEPARTMENT BY A **TYPE 2** TRANSFER.

18 (2) IT IS THE DUTY OF THE DIRECTOR OF THE DIVISION,
19 PERSONALLY OR HIS OR HER DESIGNEE, TO AID IN THE ADMINISTRATION
20 AND ENFORCEMENT OF THIS PART 11 AND TO ADMINISTER, IN
21 CONSULTATION WITH THE CONSERVATION EASEMENT OVERSIGHT
22 COMMISSION, THE CERTIFICATION OF CONSERVATION EASEMENT HOLDERS
23 AND ISSUANCE OF TAX CREDIT CERTIFICATES AS PROVIDED IN THIS PART
24 11.

25 **12-61-1103. Conservation easement oversight commission -**
26 **created - repeal.** (1) THERE IS HEREBY CREATED IN THE DIVISION A
27 CONSERVATION EASEMENT OVERSIGHT COMMISSION. THE COMMISSION

1 SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS
2 UNDER THE DIVISION AS IF TRANSFERRED THERETO BY A TYPE 2 TRANSFER,
3 AS DEFINED IN THE "ADMINISTRATIVE ORGANIZATION ACT OF 1968",
4 ARTICLE 1 OF TITLE 24. THE COMMISSION CONSISTS OF EIGHT MEMBERS AS
5 FOLLOWS:

6 (a) ONE MEMBER REPRESENTING THE GREAT OUTDOORS
7 COLORADO PROGRAM, APPOINTED BY AND SERVING AS AN ADVISORY,
8 NONVOTING MEMBER AT THE PLEASURE OF THE STATE BOARD OF THE
9 GREAT OUTDOORS COLORADO TRUST FUND ESTABLISHED IN ARTICLE
10 XXVII OF THE STATE CONSTITUTION;

11 (b) ONE VOTING MEMBER REPRESENTING THE DEPARTMENT OF
12 NATURAL RESOURCES, APPOINTED BY AND SERVING AT THE PLEASURE OF
13 THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES;

14 (c) ONE VOTING MEMBER REPRESENTING THE DEPARTMENT OF
15 AGRICULTURE, APPOINTED BY AND SERVING AT THE PLEASURE OF THE
16 EXECUTIVE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE;

17 (d) THREE VOTING MEMBERS APPOINTED BY THE GOVERNOR AS
18 FOLLOWS:

19 (I) TWO VOTING REPRESENTATIVES OF CERTIFIED CONSERVATION
20 EASEMENT HOLDERS; AND

21 (II) A VOTING INDIVIDUAL WHO IS COMPETENT AND QUALIFIED TO
22 ANALYZE THE CONSERVATION PURPOSE OF CONSERVATION EASEMENTS;
23 AND

24 (e) TWO VOTING MEMBERS OF THE GENERAL PUBLIC, ONE
25 APPOINTED BY THE PRESIDENT OF THE SENATE TO SERVE AT THE PLEASURE
26 OF THE PRESIDENT AND ONE APPOINTED BY THE SPEAKER OF THE HOUSE OF
27 REPRESENTATIVES TO SERVE AT THE PLEASURE OF THE SPEAKER.

1 (2) IN MAKING APPOINTMENTS TO THE COMMISSION, THE
2 GOVERNOR SHALL CONSULT WITH THE THREE MEMBERS OF THE
3 COMMISSION APPOINTED PURSUANT TO SUBSECTIONS (1)(a) THROUGH
4 (1)(c) OF THIS SECTION AND WITH APPROPRIATE ORGANIZATIONS
5 REPRESENTING THE PARTICULAR INTEREST OR AREA OF EXPERTISE THAT
6 THE APPOINTEES IN SUBSECTIONS (1)(d)(I) AND (1)(d)(II) OF THIS SECTION
7 REPRESENT. NOT MORE THAN TWO OF THE GOVERNOR'S APPOINTEES
8 SERVING AT THE SAME TIME SHALL BE FROM THE SAME POLITICAL PARTY.
9 IN MAKING THE INITIAL APPOINTMENTS, THE GOVERNOR SHALL APPOINT
10 ONE MEMBER FOR A TERM OF TWO YEARS. ALL OTHER APPOINTMENTS BY
11 THE GOVERNOR ARE FOR TERMS OF THREE YEARS. NO MEMBER SHALL
12 SERVE MORE THAN TWO CONSECUTIVE TERMS. IN THE EVENT OF A
13 VACANCY BY DEATH, RESIGNATION, REMOVAL, OR OTHERWISE, THE
14 GOVERNOR SHALL APPOINT A MEMBER TO FILL THE UNEXPIRED TERM. THE
15 GOVERNOR MAY REMOVE ANY MEMBER FOR MISCONDUCT, NEGLIGENCE OF
16 DUTY, OR INCOMPETENCE.

17 (3) (a) AT THE REQUEST OF THE DIVISION OR THE DEPARTMENT OF
18 REVENUE, THE COMMISSION SHALL ADVISE THE DIVISION AND THE
19 DEPARTMENT OF REVENUE REGARDING CONSERVATION EASEMENTS FOR
20 WHICH A STATE INCOME TAX CREDIT IS CLAIMED PURSUANT TO SECTION
21 39-22-522.

22 (b) THE COMMISSION SHALL REVIEW CONSERVATION EASEMENT
23 TAX CREDIT CERTIFICATE APPLICATIONS AND REQUESTS FOR OPTIONAL
24 PRELIMINARY ADVISORY OPINIONS IN ACCORDANCE WITH SECTION
25 12-61-1106.

26 (4) THE COMMISSION SHALL MEET AT LEAST QUARTERLY. THE
27 DIVISION SHALL CONVENE THE MEETINGS OF THE COMMISSION AND

1 PROVIDE STAFF SUPPORT AS REQUESTED BY THE COMMISSION. A MAJORITY
2 OF THE VOTING MEMBERS OF THE COMMISSION CONSTITUTES A QUORUM
3 FOR THE TRANSACTION OF ALL BUSINESS, AND ACTIONS OF THE
4 COMMISSION REQUIRE A VOTE OF A MAJORITY OF THE VOTING MEMBERS
5 PRESENT IN FAVOR OF THE ACTION TAKEN. THE COMMISSION MAY
6 DELEGATE TO THE DIRECTOR OF THE DIVISION THE AUTHORITY TO ACT ON
7 BEHALF OF THE COMMISSION ON OCCASIONS AND IN CIRCUMSTANCES THAT
8 THE COMMISSION DEEMS NECESSARY FOR THE EFFICIENT AND EFFECTIVE
9 ADMINISTRATION AND EXECUTION OF THE COMMISSION'S RESPONSIBILITIES
10 UNDER THIS PART 11.

11 (5) THE COMMISSION SHALL ESTABLISH A CONFLICT-OF-INTEREST
12 POLICY TO ENSURE THAT ANY MEMBER OF THE COMMISSION IS
13 DISQUALIFIED FROM PERFORMING AN ACT THAT CONFLICTS WITH A
14 PRIVATE PECUNIARY INTEREST OF THE MEMBER OR FROM PARTICIPATING
15 IN THE DELIBERATION OR DECISION-MAKING PROCESS FOR CERTIFICATION
16 FOR AN APPLICANT REPRESENTED BY THE MEMBER.

17 (6) THE COMMISSION SHALL ADVISE AND MAKE
18 RECOMMENDATIONS TO THE DIRECTOR OF THE DIVISION REGARDING THE
19 CERTIFICATION OF CONSERVATION EASEMENT HOLDERS IN ACCORDANCE
20 WITH SECTION 12-61-1104.

21 (7) COMMISSION MEMBERS ARE IMMUNE FROM LIABILITY IN
22 ACCORDANCE WITH THE PROVISIONS OF THE "COLORADO GOVERNMENTAL
23 IMMUNITY ACT", ARTICLE 10 OF TITLE 24.

24 (8) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2025.
25 PRIOR TO THE REPEAL, THE DEPARTMENT OF REGULATORY AGENCIES
26 SHALL REVIEW THE COMMISSION AS PROVIDED IN SECTION 24-34-104.

27 **12-61-1104. Certification of conservation easement holders -**

1 rules - definition - repeal. (1) THE DIVISION SHALL, IN CONSULTATION
2 WITH THE COMMISSION CREATED IN SECTION 12-61-1103, ESTABLISH AND
3 ADMINISTER A CERTIFICATION PROGRAM FOR QUALIFIED ORGANIZATIONS
4 UNDER SECTION 170 (h) OF THE FEDERAL "INTERNAL REVENUE CODE OF
5 1986", AS AMENDED, THAT HOLD CONSERVATION EASEMENTS FOR WHICH
6 A TAX CREDIT IS CLAIMED PURSUANT TO SECTION 39-22-522. THE
7 PURPOSES OF THE PROGRAM ARE TO:

8 (a) ESTABLISH MINIMUM QUALIFICATIONS FOR CERTIFYING
9 ORGANIZATIONS THAT HOLD CONSERVATION EASEMENTS TO ENCOURAGE
10 PROFESSIONALISM AND STABILITY; AND

11 (b) IDENTIFY FRAUDULENT OR UNQUALIFIED APPLICANTS, AS
12 DETERMINED UNDER THE RULES OF THE DIVISION, TO PREVENT THEM FROM
13 BECOMING CERTIFIED BY THE PROGRAM.

14 (2) THE DIVISION SHALL ESTABLISH AND ACCEPT APPLICATIONS
15 FOR CERTIFICATION. THE DIVISION SHALL CONDUCT A REVIEW OF EACH
16 APPLICATION AND CONSIDER THE RECOMMENDATIONS OF THE COMMISSION
17 BEFORE MAKING A FINAL DETERMINATION TO GRANT OR DENY
18 CERTIFICATION. IN REVIEWING AN APPLICATION AND IN GRANTING
19 CERTIFICATION, THE DIVISION AND THE COMMISSION MAY CONSIDER:

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

22 (b) THE APPLICANT'S STEWARDSHIP PRACTICES AND CAPACITY,
23 INCLUDING THE ABILITY TO MAINTAIN, MONITOR, AND DEFEND THE
24 PURPOSES OF THE EASEMENT;

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

26 (d) THE APPLICANT'S SYSTEM OF GOVERNANCE AND ETHICS
27 REGARDING CONFLICTS OF INTEREST AND TRANSACTIONS WITH RELATED

1 PARTIES AS DESCRIBED IN SECTION 267 (b) OF THE FEDERAL "INTERNAL
2 REVENUE CODE OF 1986", AS AMENDED, DONORS, BOARD MEMBERS, AND
3 INSIDERS. FOR PURPOSES OF THIS SUBSECTION (2)(d), "INSIDERS" MEANS
4 BOARD AND STAFF MEMBERS, SUBSTANTIAL CONTRIBUTORS, PARTIES
5 RELATED TO THOSE ABOVE, THOSE WHO HAVE AN ABILITY TO INFLUENCE
6 DECISIONS OF THE ORGANIZATION, AND THOSE WITH ACCESS TO
7 INFORMATION NOT AVAILABLE TO THE GENERAL PUBLIC.

8 (e) ANY OTHER INFORMATION DEEMED RELEVANT BY THE DIVISION
9 OR THE COMMISSION; AND

10 (f) THE UNIQUE CIRCUMSTANCES OF THE DIFFERENT ENTITIES TO
11 WHICH THIS CERTIFICATION APPLIES AS SET FORTH IN SUBSECTION (4) OF
12 THIS SECTION.

13 (3) AT THE TIME OF SUBMISSION OF AN APPLICATION, AND EACH
14 YEAR THE ENTITY IS CERTIFIED PURSUANT TO THIS SECTION, THE
15 APPLICANT SHALL PAY THE DIVISION A FEE, AS PRESCRIBED BY THE
16 DIVISION, TO COVER THE COSTS OF THE DIVISION AND THE COMMISSION IN
17 ADMINISTERING THE CERTIFICATION PROGRAM FOR ENTITIES THAT HOLD
18 CONSERVATION EASEMENTS FOR WHICH TAX CREDITS ARE CLAIMED
19 PURSUANT TO SECTION 39-22-522. THE DIVISION SHALL HAVE THE
20 AUTHORITY TO ACCEPT AND EXPEND GIFTS, GRANTS, AND DONATIONS FOR
21 THE PURPOSES OF THIS SECTION. THE STATE TREASURER SHALL CREDIT
22 FEES, GIFTS, GRANTS, AND DONATIONS COLLECTED PURSUANT TO THIS
23 SUBSECTION (3) TO THE CONSERVATION CASH FUND CREATED IN SECTION
24 12-61-1107. ON OR BEFORE EACH JANUARY 1, THE DIVISION SHALL
25 CERTIFY TO THE GENERAL ASSEMBLY THE AMOUNT OF THE FEE
26 PRESCRIBED BY THE DIVISION PURSUANT TO THIS SUBSECTION (3).

27 (4) THE CERTIFICATION PROGRAM APPLIES TO:

1 (a) NONPROFIT ENTITIES HOLDING EASEMENTS ON PROPERTY WITH
2 CONSERVATION VALUES CONSISTING OF RECREATION OR EDUCATION,
3 PROTECTION OF ENVIRONMENTAL SYSTEMS, OR PRESERVATION OF OPEN
4 SPACE;

5 (b) NONPROFIT ENTITIES HOLDING EASEMENTS ON PROPERTY FOR
6 HISTORIC PRESERVATION; AND

7 (c) THE STATE AND ANY MUNICIPALITY, COUNTY, CITY AND
8 COUNTY, SPECIAL DISTRICT, OR OTHER POLITICAL SUBDIVISION OF THE
9 STATE THAT HOLDS AN EASEMENT.

10 (5) THE CERTIFICATION PROGRAM SHALL CONTAIN A PROVISION
11 ALLOWING FOR THE EXPEDITED OR AUTOMATIC CERTIFICATION OF AN
12 ENTITY THAT IS CURRENTLY ACCREDITED BY NATIONAL LAND
13 CONSERVATION ORGANIZATIONS THAT ARE BROADLY ACCEPTED BY THE
14 CONSERVATION INDUSTRY.

15 (6) THE COMMISSION SHALL MEET AT LEAST QUARTERLY AND
16 MAKE RECOMMENDATIONS TO THE DIVISION REGARDING THE
17 CERTIFICATION PROGRAM. THE DIVISION IS AUTHORIZED TO DETERMINE
18 WHETHER AN APPLICANT FOR CERTIFICATION POSSESSES THE NECESSARY
19 QUALIFICATIONS FOR CERTIFICATION REQUIRED BY THE RULES ADOPTED
20 BY THE DIVISION. IF THE DIVISION DETERMINES THAT AN APPLICANT DOES
21 NOT POSSESS THE APPLICABLE QUALIFICATIONS FOR CERTIFICATION OR
22 THAT THE APPLICANT HAS VIOLATED ANY PROVISION OF THIS PART 11, THE
23 RULES PROMULGATED BY THE DIVISION, OR ANY DIVISION ORDER, THE
24 DIVISION MAY DENY THE APPLICANT A CERTIFICATION OR DENY THE
25 RENEWAL OF A CERTIFICATION, AND, IN SUCH INSTANCE, THE DIVISION
26 SHALL PROVIDE THE APPLICANT WITH A STATEMENT IN WRITING SETTING
27 FORTH THE BASIS OF THE DIVISION'S DETERMINATION. THE APPLICANT MAY

1 REQUEST A HEARING ON THE DETERMINATION AS PROVIDED IN SECTION
2 24-4-104 (9). THE DIVISION SHALL NOTIFY SUCCESSFUL APPLICANTS IN
3 WRITING. AN APPLICANT THAT IS NOT CERTIFIED MAY REAPPLY FOR
4 CERTIFICATION IN ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE
5 DIVISION.

6 (7) THE DIVISION SHALL PROMULGATE RULES TO EFFECTUATE THE
7 DUTIES OF THE COMMISSION PURSUANT TO ARTICLE 4 OF TITLE 24. SUCH
8 RULES SHALL SPECIFICALLY ADDRESS THE FOLLOWING:

9 (a) ALLOWING FOR THE EXPEDITED OR AUTOMATIC CERTIFICATION
10 OF AN ENTITY THAT IS CURRENTLY ACCREDITED BY NATIONAL LAND
11 CONSERVATION ORGANIZATIONS THAT ARE BROADLY ACCEPTED BY THE
12 CONSERVATION INDUSTRY;

13 (b) A STREAMLINED AND LOWER-COST PROCESS FOR
14 CONSERVATION EASEMENT HOLDERS THAT DO NOT INTEND TO ACCEPT
15 NEW DONATIONS OF CONSERVATION EASEMENTS FOR WHICH TAX CREDITS
16 WOULD BE CLAIMED THAT FOCUSES ON THE HOLDER'S STEWARDSHIP
17 CAPABILITIES;

18 (c) THE FEES CHARGED PURSUANT TO SUBSECTION (3) OF THIS
19 SECTION OR SECTION 12-61-1106 (6), SPECIFICALLY ENSURING THAT THE
20 FEES ARE ADEQUATE TO PAY FOR ADMINISTRATIVE COSTS BUT NOT SO
21 HIGH AS TO ACT AS A DISINCENTIVE TO THE CREATION OF CONSERVATION
22 EASEMENTS IN THE STATE; AND

23 (d) THE ADOPTION OF BEST PRACTICES, PROCESSES, AND
24 PROCEDURES USED BY OTHER ENTITIES THAT REGULARLY REVIEW
25 CONSERVATION EASEMENT TRANSACTIONS, INCLUDING A PRACTICE,
26 PROCESS, OR PROCEDURE DEEMING QUALIFIED CONSERVATION EASEMENT
27 APPRAISALS APPROVED BY THESE ENTITIES BASED ON THEIR INDEPENDENT

1 REVIEWS AS CREDIBLE FOR PURPOSES OF THE CONSERVATION EASEMENT
2 TAX CREDIT.

3 (8) A CONSERVATION EASEMENT TAX CREDIT CERTIFICATE
4 APPLICATION MAY BE SUBMITTED PURSUANT TO SECTION 12-61-1106
5 ONLY IF THE ENTITY HAS BEEN CERTIFIED IN ACCORDANCE WITH THIS
6 SECTION AT THE TIME THE DONATION OF THE EASEMENT IS MADE. THE
7 DIVISION SHALL MAKE INFORMATION AVAILABLE TO THE PUBLIC
8 CONCERNING THE DATE THAT IT COMMENCES ACCEPTING APPLICATIONS
9 FOR ENTITIES THAT HOLD CONSERVATION EASEMENTS AND THE
10 REQUIREMENTS OF THIS SUBSECTION (8).

11 (9) THE DIVISION SHALL MAINTAIN AND UPDATE AN ONLINE LIST,
12 ACCESSIBLE TO THE PUBLIC, OF THE ORGANIZATIONS THAT HAVE APPLIED
13 FOR CERTIFICATION AND WHETHER EACH HAS BEEN CERTIFIED, REJECTED
14 FOR CERTIFICATION, OR HAD ITS CERTIFICATION REVOKED OR SUSPENDED
15 IN ACCORDANCE WITH THIS SECTION.

16 (10) THE DIVISION MAY INVESTIGATE THE ACTIVITIES OF ANY
17 ENTITY THAT IS REQUIRED TO BE CERTIFIED PURSUANT TO THIS SECTION
18 AND TO IMPOSE DISCIPLINE FOR NONCOMPLIANCE, INCLUDING THE
19 SUSPENSION OR REVOCATION OF A CERTIFICATION OR THE IMPOSITION OF
20 FINES. THE DIVISION MAY PROMULGATE RULES IN ACCORDANCE WITH
21 ARTICLE 4 OF TITLE 24 FOR THE CERTIFICATION PROGRAM AND DISCIPLINE
22 AUTHORIZED BY THIS SECTION.

23 (11) THE DIVISION MAY SUBPOENA PERSONS AND DOCUMENTS,
24 WHICH SUBPOENAS MAY BE ENFORCED BY A COURT OF COMPETENT
25 JURISDICTION IF NOT OBEYED, FOR PURPOSES OF CONDUCTING
26 INVESTIGATIONS PURSUANT TO SUBSECTION (10) OF THIS SECTION.

27 (12) NOTHING IN THIS SECTION:

1 (a) AFFECTS ANY TAX CREDIT THAT WAS CLAIMED PURSUANT TO
2 SECTION 39-22-522 BEFORE CERTIFICATION WAS REQUIRED BY THIS
3 SECTION; OR

4 (b) REQUIRES THE CERTIFICATION OF AN ENTITY THAT HOLDS A
5 CONSERVATION EASEMENT FOR WHICH A TAX CREDIT IS NOT CLAIMED
6 PURSUANT TO SECTION 39-22-522.

7 (13) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2025.
8 PRIOR TO THE REPEAL, THE DEPARTMENT OF REGULATORY AGENCIES
9 SHALL REVIEW THE CERTIFICATION REQUIREMENT AS PROVIDED FOR IN
10 SECTION 24-34-104.

11 **12-61-1105. Conservation easement tax credit certificates -**

12 **rules.** (1) THE DIVISION SHALL RECEIVE TAX CREDIT CERTIFICATE
13 APPLICATIONS FROM AND ISSUE CERTIFICATES TO LANDOWNERS FOR
14 INCOME TAX CREDITS FOR CONSERVATION EASEMENTS DONATED ON OR
15 AFTER JANUARY 1, 2011, IN ACCORDANCE WITH SECTION 39-22-522 (2.5)
16 AND THIS PART 11. NOTHING IN THIS SECTION RESTRICTS OR LIMITS THE
17 AUTHORITY OF THE DIVISION TO ENFORCE THIS PART 11. THE DIVISION
18 MAY PROMULGATE RULES IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24
19 FOR THE ISSUANCE OF THE CERTIFICATES. IN PROMULGATING RULES, THE
20 DIVISION MAY INCLUDE PROVISIONS GOVERNING:

21 (a) THE REVIEW OF THE TAX CREDIT CERTIFICATE APPLICATION
22 PURSUANT TO THIS PART 11;

23 (b) THE ADMINISTRATION AND FINANCING OF THE CERTIFICATION
24 PROCESS;

25 (c) THE NOTIFICATION TO THE PUBLIC REGARDING THE AGGREGATE
26 AMOUNT OF TAX CREDIT CERTIFICATES THAT HAVE BEEN ISSUED AND THAT
27 ARE ON THE WAIT LIST PURSUANT TO SECTION 39-25-522 (2.5);

1 (d) THE NOTIFICATION TO THE LANDOWNER, THE ENTITY TO WHICH
2 THE EASEMENT WAS GRANTED, AND THE DEPARTMENT OF REVENUE
3 REGARDING THE TAX CREDIT CERTIFICATES ISSUED; AND

4 (e) ANY OTHER MATTERS RELATED TO ADMINISTERING SECTION
5 39-22-522 (2.5) OR THIS PART 11.

6 (2) THE DIVISION SHALL APPLY THE AMOUNT CLAIMED IN A
7 COMPLETED TAX CREDIT CERTIFICATE APPLICATION AGAINST THE ANNUAL
8 TAX CREDIT LIMIT IN THE ORDER THAT COMPLETED APPLICATIONS ARE
9 RECEIVED. THE DIVISION SHALL APPLY CLAIMED TAX CREDIT AMOUNTS
10 THAT EXCEED THE ANNUAL LIMIT IN ANY YEAR AGAINST THE LIMIT FOR
11 THE NEXT AVAILABLE YEAR AND ISSUE TAX CREDIT CERTIFICATES FOR USE
12 IN THE YEAR IN WHICH THE AMOUNT WAS APPLIED TO THE ANNUAL LIMIT.

13 (3) THE DIVISION SHALL NOT ISSUE TAX CREDIT CERTIFICATES
14 THAT IN AGGREGATE EXCEED THE LIMIT SET FORTH IN SECTION 39-22-522
15 (2.5) DURING A PARTICULAR CALENDAR YEAR.

16 **12-61-1106. Conservation easement tax credit certificate**
17 **application process - definitions - rules. (1) FOR PURPOSES OF THIS**
18 **SECTION:**

19 (a) "APPLICATION" MEANS AN APPLICATION FOR A TAX CREDIT
20 CERTIFICATE SUBMITTED PURSUANT TO SECTION 12-61-1105 OR THIS
21 SECTION.

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

26 (c) "CREDIBILITY" MEANS THE RESULTS ARE WORTHY OF BELIEF
27 AND ARE SUPPORTED BY RELEVANT EVIDENCE AND LOGIC TO THE DEGREE

1 NECESSARY FOR THE INTENDED USE.

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

7 (e) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OF
8 CONSERVATION OR HIS OR HER DESIGNEE.

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

13 (g) "TAX CREDIT CERTIFICATE" MEANS THE CONSERVATION
14 EASEMENT TAX CREDIT CERTIFICATE ISSUED PURSUANT TO SECTION
15 12-61-1105 AND THIS SECTION.

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

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

26 (II) IS SUBSTANTIATED WITH A QUALIFIED APPRAISAL PREPARED BY
27 A QUALIFIED APPRAISER IN ACCORDANCE WITH THE UNIFORM STANDARDS

1 OF PROFESSIONAL APPRAISAL PRACTICE; AND
2 (III) COMPLIES WITH THE REQUIREMENTS OF THIS SECTION.
3 (b) THE LANDOWNER HAS THE BURDEN OF PROOF REGARDING
4 COMPLIANCE WITH ALL APPLICABLE LAWS, RULES, 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 IS A QUALIFIED APPRAISAL FROM A QUALIFIED APPRAISER, AS DEFINED IN
19 SECTION 170(f) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS
20 AMENDED, AND ANY FEDERAL REGULATIONS PROMULGATED IN
21 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 PART 7 OF THIS TITLE 12; AND

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)(k).

4 (c) THE DIRECTOR HAS THE AUTHORITY AND RESPONSIBILITY TO
5 DETERMINE COMPLIANCE WITH THE REQUIREMENTS OF SECTION
6 12-61-1104.

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

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

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

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

21 (b) A COPY OF THE RECORDED DEED GRANTING THE
22 CONSERVATION EASEMENT;

23 (c) DOCUMENTATION SUPPORTING THE CONSERVATION PURPOSE
24 OF THE EASEMENT;

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

1 (e) THE FEE REQUIRED PURSUANT TO SUBSECTION (6) OF THIS
2 SECTION.

3 (6) A LANDOWNER SUBMITTING AN APPLICATION FOR A TAX
4 CREDIT CERTIFICATE PURSUANT TO THIS SECTION OR AN APPLICATION FOR
5 AN OPTIONAL PRELIMINARY ADVISORY OPINION PURSUANT TO SUBSECTION
6 (14) OF THIS SECTION SHALL PAY THE DIVISION A FEE AS PRESCRIBED BY
7 THE DIVISION. THE APPLICATION FEE FOR AN OPTIONAL PRELIMINARY
8 ADVISORY OPINION MAY BE A DIFFERENT DOLLAR AMOUNT THAN THE
9 APPLICATION FEE FOR A TAX CREDIT CERTIFICATE. THE FEES MUST BE
10 ADEQUATE TO PAY FOR THE ADMINISTRATIVE COSTS OF THE DIVISION AND
11 THE COMMISSION IN ADMINISTERING THE REQUIREMENTS OF THIS SECTION,
12 BUT NOT SO HIGH AS TO ACT AS A DISINCENTIVE TO THE CREATION OF
13 CONSERVATION EASEMENTS IN THE STATE. THE STATE TREASURER SHALL
14 CREDIT THE FEES COLLECTED PURSUANT TO THIS SUBSECTION (6) TO THE
15 CONSERVATION CASH FUND CREATED IN SECTION 12-61-1107. ON OR
16 BEFORE JANUARY 1, 2014, AND ON OR BEFORE EACH JANUARY 1
17 THEREAFTER, THE DIVISION SHALL CERTIFY TO THE GENERAL ASSEMBLY
18 THE AMOUNT OF ANY FEES PRESCRIBED BY THE DIVISION PURSUANT TO
19 THIS SUBSECTION (6).

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

1 DATE OF THE DIVISION'S LETTER TO THE LANDOWNER DOES NOT EXCEED
2 ONE HUNDRED TWENTY DAYS.

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

9 (c) THE DIRECTOR AND THE COMMISSION HAVE NINETY DAYS
10 AFTER THE DATE OF RECEIPT OF ANY ADDITIONAL INFORMATION OR
11 DOCUMENTATION PROVIDED BY THE LANDOWNER TO REVIEW THE
12 INFORMATION AND DOCUMENTATION AND MAKE A FINAL DETERMINATION
13 REGARDING THE APPLICATION.

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

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

19 (a) HAS NOT DEMONSTRATED TO THE SATISFACTION OF THE
20 DIRECTOR OR THE COMMISSION THAT THE APPLICATION COMPLIES WITH
21 ANY REQUIREMENT OF THIS PART 11;

22 (b) DOES NOT PROVIDE THE INFORMATION AND DOCUMENTATION
23 REQUIRED PURSUANT TO THIS PART 11; OR

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

26 (9) IF THE DIRECTOR REASONABLY BELIEVES THAT ANY APPRAISAL
27 SUBMITTED IN ACCORDANCE WITH THIS SECTION IS NOT CREDIBLE, THE

1 DIRECTOR, AFTER CONSULTATION WITH THE COMMISSION, MAY REQUEST
2 THAT THE LANDOWNER, AT THE LANDOWNER'S EXPENSE, OBTAIN EITHER
3 A SECOND APPRAISAL OR A REVIEW OF THE APPRAISAL SUBMITTED WITH
4 THE APPLICATION FROM AN APPRAISER WHO MEETS THE REQUIREMENTS OF
5 PART 7 OF THIS TITLE 12 AND IS IN GOOD STANDING WITH THE BOARD
6 BEFORE MAKING A FINAL DETERMINATION REGARDING THE APPLICATION.

7 (10) IF THE DIRECTOR AND THE COMMISSION DO NOT IDENTIFY ANY
8 POTENTIAL DEFICIENCIES WITH AN APPLICATION, THE DIRECTOR AND THE
9 COMMISSION SHALL APPROVE THE APPLICATION, AND THE DIVISION SHALL
10 ISSUE A TAX CREDIT CERTIFICATE TO THE LANDOWNER PURSUANT TO
11 SECTION 12-61-1105 IN A TIMELY MANNER SO THAT THE NUMBER OF DAYS
12 BETWEEN THE DATE A COMPLETED APPLICATION IS RECEIVED BY THE
13 DIVISION AND THE DATE THE TAX CREDIT CERTIFICATE IS ISSUED DOES NOT
14 EXCEED ONE HUNDRED TWENTY DAYS. ONCE A TAX CREDIT CERTIFICATE
15 IS ISSUED, THE LANDOWNER MAY CLAIM AND USE THE TAX CREDIT SUBJECT
16 TO ANY OTHER APPLICABLE PROCEDURES AND REQUIREMENTS UNDER
17 TITLE 39.

18 (11) (a) IF ALL POTENTIAL DEFICIENCIES THAT HAVE BEEN
19 IDENTIFIED ARE SUBSEQUENTLY ADDRESSED TO THE SATISFACTION OF THE
20 DIRECTOR AND THE COMMISSION, THE DIRECTOR AND THE COMMISSION
21 SHALL APPROVE THE APPLICATION, AND THE DIVISION SHALL ISSUE A TAX
22 CREDIT CERTIFICATE TO THE LANDOWNER PURSUANT TO SECTION
23 12-61-1105. ONCE A TAX CREDIT CERTIFICATE IS ISSUED, THE LANDOWNER
24 MAY CLAIM AND USE THE TAX CREDIT SUBJECT TO ANY OTHER APPLICABLE
25 PROCEDURES AND REQUIREMENTS UNDER TITLE 39.

26 (b) IF ANY POTENTIAL DEFICIENCIES THAT HAVE BEEN IDENTIFIED
27 ARE NOT SUBSEQUENTLY ADDRESSED TO THE SATISFACTION OF THE

1 DIRECTOR AND THE COMMISSION, THE DIVISION SHALL ISSUE A WRITTEN
2 DENIAL OF THE APPLICATION TO THE LANDOWNER DOCUMENTING THOSE
3 DEFICIENCIES THAT WERE THE SPECIFIC BASIS FOR THE DENIAL. THE
4 DIVISION SHALL DATE THE WRITTEN DENIAL AND SEND IT BY FIRST CLASS
5 MAIL TO THE LANDOWNER AT THE ADDRESS PROVIDED BY THE
6 LANDOWNER ON THE APPLICATION. THE DIRECTOR MAY ACT ON BEHALF OF
7 THE COMMISSION FOR PURPOSES OF ADMINISTERING THE PROCESS FOR
8 ISSUING APPROVALS AND DENIALS OF APPLICATIONS AND FOR
9 ADMINISTERING SUBSECTION (12) OF THIS SECTION.

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

15 (b) IF THE LANDOWNER FAILS TO APPEAL THE DENIAL OF AN
16 APPLICATION WITHIN THIRTY DAYS AFTER THE ISSUANCE OF THE DENIAL,
17 THE DENIAL BECOMES FINAL, AND THE DIVISION SHALL NOT ISSUE A TAX
18 CREDIT CERTIFICATE TO THE LANDOWNER.

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

1 APPEALS AND IS SUBJECT TO THE PROVISIONS OF SECTION 24-4-106.

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

9 (e) THE DIRECTOR MAY PROMULGATE RULES PURSUANT TO
10 ARTICLE 4 OF TITLE 24 TO EFFECTUATE THE PURPOSES OF THIS SUBSECTION
11 (12).

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

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

19 (II) FOR APPLICATIONS APPROVED IN ACCORDANCE WITH THIS
20 SECTION:

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

26 (B) THE TOTAL APPRAISED VALUE OF THE EASEMENTS;

27 (C) THE TOTAL DONATED VALUE OF THE EASEMENTS; AND

1 (D) THE TOTAL DOLLAR AMOUNT OF TAX CREDIT CERTIFICATES
2 ISSUED.

3 (b) THE DIVISION MAY INCLUDE ADDITIONAL EASEMENT-SPECIFIC
4 INFORMATION IN THE PUBLIC REPORT THAT, NOTWITHSTANDING THE
5 PROVISIONS OF THIS PART 11 OR ANY OTHER LAW TO THE CONTRARY,
6 WOULD OTHERWISE BE PUBLICLY AVAILABLE.

7 (c) THE COMMISSIONER IS AUTHORIZED TO SHARE PUBLICLY
8 AVAILABLE INFORMATION REGARDING CONSERVATION EASEMENTS WITH
9 A THIRD-PARTY VENDOR FOR THE PURPOSE OF DEVELOPING AND
10 MAINTAINING A REGISTRY OF CONSERVATION EASEMENTS IN THE STATE
11 WITH A CORRESPONDING MAP DISPLAYING THE BOUNDARIES OF EACH
12 EASEMENT IN THE STATE RELATIVE TO COUNTY BOUNDARIES AND OTHER
13 RELEVANT MAPPING INFORMATION. PRIOR TO SHARING THE INFORMATION,
14 THE COMMISSIONER SHALL CONSULT WITH THE COMMISSION REGARDING
15 THE APPROPRIATE TYPES OF INFORMATION AND THE METHODS USED FOR
16 COLLECTING THE INFORMATION. THE DEPARTMENT OF REGULATORY
17 AGENCIES SHALL ANNUALLY REPORT ON THE INFORMATION CONTAINED IN
18 THE REGISTRY AS A PART OF ITS PRESENTATION TO ITS COMMITTEE OF
19 REFERENCE AT A HEARING HELD PURSUANT TO SECTION 2-7-203 (2)(a) OF
20 THE "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND
21 TRANSPARENT (SMART) GOVERNMENT ACT". THE INFORMATION TO BE
22 SHARED SHALL INCLUDE THE FOLLOWING:

23 (I) ANY DEEDS, CONTRACTS, OR OTHER INSTRUMENTS CREATING,
24 ASSIGNING, TRANSFERRING, CONVEYING, TERMINATING, OR OTHERWISE
25 AFFECTING THE EASEMENT, INCLUDING THE RECEPTION NUMBERS ON ALL
26 INSTRUMENTS;

27 (II) THE LOCATION AND ACREAGE OF EACH EASEMENT,

1 DELINEATED BY COUNTY;

2 (III) THE NAMES AND ADDRESSES OF ANY GRANTORS OF THE
3 EASEMENT AND THE NAMES AND ADDRESSES OF ANY HOLDERS OF THE
4 EASEMENT SINCE ITS CREATION;

5 (IV) WHETHER THE HOLDER OF THE EASEMENT IS A CERTIFIED
6 ORGANIZATION PURSUANT TO SECTION 12-61-724;

7 (V) THE CONSERVATION PURPOSES OF THE EASEMENT; AND

8 (VI) THE AMOUNT OF ANY INCOME TAX CREDITS CLAIMED OR
9 ALLOWED FOR THE EASEMENT AND THE AMOUNT OF ANY SUCH CREDITS
10 THAT WERE TRANSFERRED TO ANOTHER TAXPAYER PURSUANT TO SECTION
11 39-22-522.

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 MAY PROMULGATE RULES TO EFFECTUATE THE
11 PURPOSE, IMPLEMENTATION, AND ADMINISTRATION OF THIS SECTION
12 PURSUANT TO ARTICLE 4 OF TITLE 24. THE AUTHORITY TO PROMULGATE
13 RULES INCLUDES THE AUTHORITY TO DEFINE FURTHER IN RULE THE
14 ADMINISTRATIVE PROCESSES AND REQUIREMENTS, INCLUDING
15 APPLICATION PROCESSING AND REVIEW TIME FRAMES, FOR OBTAINING AND
16 ISSUING AN OPTIONAL PRELIMINARY ADVISORY OPINION PURSUANT TO
17 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, THE DIVISION,
20 THE DIRECTOR, AND THE COMMISSION SHALL DENY THE RIGHT OF PUBLIC
21 INSPECTION OF ANY DOCUMENTATION OR OTHER RECORD RELATED TO
22 INFORMATION OBTAINED AS PART OF AN INDIVIDUAL LANDOWNER'S
23 APPLICATION FOR A TAX CREDIT CERTIFICATE OR AN OPTIONAL
24 PRELIMINARY ADVISORY OPINION PURSUANT TO THE REQUIREMENTS OF
25 THIS SECTION, INCLUDING DOCUMENTATION OR OTHER RECORDS RELATED
26 TO ADMINISTRATIVE HEARINGS AND SETTLEMENT DISCUSSIONS HELD
27 PURSUANT TO SUBSECTION (12) OF THIS SECTION. THE DIVISION, THE

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

4 (17) NOTHING IN THIS SECTION AFFECTS ANY TAX CREDIT THAT IS
5 CLAIMED OR USED PURSUANT TO SECTION 39-22-522 FOR CONSERVATION
6 EASEMENT DONATIONS OCCURRING PRIOR TO JANUARY 1, 2014.

7 **12-61-1107. Conservation cash fund - repeal.** (1) THERE IS
8 HEREBY CREATED IN THE STATE TREASURY THE CONSERVATION CASH
9 FUND, WHICH CONSISTS OF ANY MONEYS TRANSFERRED PURSUANT TO
10 SECTION 12-61-1104 AND 12-61-1106 AND ANY GIFTS, GRANTS, AND
11 DONATIONS PROVIDED TO CARRY OUT THE PURPOSES OF THIS PART 11. ALL
12 MONEY IN THE FUND SHALL BE USED AS PROVIDED IN THIS PART 11.
13 INTEREST EARNED ON THE FUND SHALL REMAIN IN THE FUND AND SHALL
14 NOT BE DEPOSITED IN OR TRANSFERRED TO THE GENERAL FUND OR ANY
15 OTHER FUND.

16 (2) ON JULY 1, 2018, THE STATE TREASURER SHALL TRANSFER TO
17 THE CONSERVATION CASH FUND ANY MONEYS IN THE DIVISION OF REAL
18 ESTATE CASH FUND CREATED IN THE SECTION 12-61-111.5 THAT ARE
19 ATTRIBUTABLE TO ANY FEES, GIFTS, GRANTS, OR DONATIONS CREDITED TO
20 THE DIVISION OF REAL ESTATE CASH FUND IN ACCORDANCE WITH SECTION
21 12-61-724 (3) OR SECTION 12-61-727 THAT ARE IN THE FUND
22 IMMEDIATELY PRIOR TO THE REPEAL OF SECTIONS 12-61-724 AND
23 12-61-727. THIS SUBSECTION (2) IS REPEALED EFFECTIVE JULY 1, 2019.

24 **SECTION 2.** In Colorado Revised Statutes, 12-61-111.5, repeal
25 (2)(b)(II)(A) as follows:

26 **12-61-111.5. Fee adjustments - cash fund created - repeal.**
27 (2) (b) (II) (A) On June 30, 2017, the state treasurer shall transfer to the

1 division of real estate cash fund all unexpended and unencumbered
2 money that remained in the HHOA information and resource center cash
3 fund created in section 12-61-406.5, the conservation easement holder
4 certification fund created in section 12-61-724, the conservation easement
5 tax credit certificate review fund created in section 12-61-727, and the
6 mortgage company and loan originator licensing cash fund created in
7 section 12-61-908 immediately prior to the repeal of those funds.

8 **SECTION 3.** In Colorado Revised Statutes, 12-61-702, **repeal** (5)
9 as follows:

10 **12-61-702. Definitions.** As used in this part 7, unless the context
11 otherwise requires:

12 (5) "Commission" means the conservation easement oversight
13 commission created in section 12-61-725 (1).

14 **SECTION 4.** In Colorado Revised Statutes, 12-61-704, **amend**
15 (1)(k) as follows:

16 **12-61-704. Powers and duties of the board - rules.** (1) In
17 addition to all other powers and duties imposed upon it by law, the board
18 has the following powers and duties:

19 (k) To establish classroom education and experience requirements
20 for an appraiser who prepares an appraisal for a conservation easement
21 for which a tax credit is claimed pursuant to section 39-22-522. C.R.S.
22 The requirements must ensure that appraisers have a sufficient amount of
23 training and expertise to accurately prepare appraisals that comply with
24 the uniform standards of professional appraisal practice and any other
25 provision of law related to the appraisal of conservation easements for
26 which a tax credit is claimed. A tax credit certificate for a conservation
27 easement shall not be given in accordance with sections 12-61-726 and

1 12-61-727 SECTIONS 12-61-1105 AND 12-61-1106 unless the appraiser
2 who prepared the appraisal of the easement met all requirements
3 established in accordance with this ~~paragraph (k)~~ SUBSECTION (1)(k) in
4 effect at the time the appraisal was completed ASSIGNMENT IS
5 PERFORMED.

6 **SECTION 5.** In Colorado Revised Statutes, 39-21-113, **amend**
7 **(17) as follows:**

8 **39-21-113. Reports and returns - rule.** (17) Notwithstanding
9 any other provision of this section, the executive director may require that
10 such detailed information regarding a claim for a credit for the donation
11 of a conservation easement in gross pursuant to section 39-22-522 and
12 any appraisal submitted in support of the credit claimed be given to the
13 division of ~~real estate~~ CONSERVATION in the department of regulatory
14 agencies and the conservation easement oversight commission created
15 pursuant to section 12-61-725 (1), C.R.S., SECTION 12-61-1103 as the
16 executive director determines is necessary in the performance of the
17 department's functions relating to the credit. The executive director may
18 provide copies of any appraisal and may file a complaint regarding any
19 appraisal as authorized pursuant to section 39-22-522 (3.3).
20 Notwithstanding the provisions of part 2 of article 72 of title 24, C.R.S.,
21 in order to protect the confidential financial information of a taxpayer, the
22 executive director shall deny the right to inspect any information or
23 appraisal required in accordance with the provisions of this subsection
24 (17).

25 **SECTION 6.** In Colorado Revised Statutes, 39-22-522, **amend**
26 **(2)(b), (2.5), (2.7), (3)(f) introductory portion, (3.5)(a)(I), (3.5)(a)(II),**
27 **(3.5)(b), (3.6)(a)(I), (3.6)(b), and (7)(g), and add (3.5)(c) as follows:**

1 **39-22-522. Credit against tax - conservation easements.**

2 (2) (b) For income tax years commencing on or after January 1, 2014,
3 BUT PRIOR TO JANUARY 1, 2019, AND FOR INCOME TAX YEARS
4 COMMENCING ON OR AFTER JANUARY 1, 2022, and, with regard to any
5 credit over the amount of one hundred thousand dollars, for income tax
6 years commencing on or after January 1, 2003, subject to the provisions
7 of subsections (4) and (6) of this section, there shall be allowed a credit
8 with respect to the income taxes imposed by this ~~article~~ ARTICLE 22 to
9 each taxpayer who donates during the taxable year all or part of the value
10 of a perpetual conservation easement in gross created pursuant to article
11 30.5 of title 38 C.R.S., upon real property the taxpayer owns to a
12 governmental entity or a charitable organization described in section
13 38-30.5-104 (2). C.R.S. The credit shall only be allowed for a donation
14 that meets the requirements of section 170 of the federal "Internal
15 Revenue Code of 1986", as amended, and any federal regulations
16 promulgated in accordance with such section. The amount of the credit
17 shall not include the value of any portion of an easement on real property
18 located in another state.

19 (2.5) Notwithstanding any other provision of this section and the
20 requirements of section ~~12-61-727, C.R.S.~~ SECTION 12-61-1106, for
21 income tax years commencing on or after January 1, 2011, a taxpayer
22 conveying a conservation easement and claiming a credit pursuant to this
23 section shall, in addition to any other requirements of this section and the
24 requirements of section ~~12-61-727, C.R.S.~~ SECTION 12-61-1106, submit
25 a claim for the credit to the division of ~~real estate~~ CONSERVATION in the
26 department of regulatory agencies. The division shall issue a certificate
27 for the claims received in the order submitted. After certificates have

1 been issued for credits that exceed an aggregate of twenty-two million
2 dollars for all taxpayers for the 2011 and 2012 calendar years, thirty-four
3 million dollars for the 2013 calendar year, and forty-five million dollars
4 for each calendar year thereafter, any claims that exceed the amount
5 allowed for a specified calendar year shall be placed on a wait list in the
6 order submitted and a certificate shall be issued for use of the credit in the
7 next year for which the division has not issued credit certificates in excess
8 of the amounts specified in this subsection (2.5); except that no more than
9 fifteen million dollars in claims shall be placed on the wait list in any
10 given calendar year. The division shall not issue credit certificates that
11 exceed twenty-two million dollars in each of the 2011 and 2012 calendar
12 years, thirty-four million dollars for the 2013 calendar year, and forty-five
13 million dollars for each calendar year thereafter. No claim for a credit is
14 allowed for any income tax year commencing on or after January 1, 2011,
15 unless a certificate has been issued by the division. If all other
16 requirements under section 12-61-727, C.R.S., SECTION 12-61-1106 and
17 this section are met, the right to claim the credit is vested in the taxpayer
18 at the time a credit certificate is issued.

19 (2.7) Notwithstanding any other provision, for income tax years
20 commencing on or after January 1, 2014, no claim for a credit shall be
21 allowed unless a tax credit certificate is issued by the division of real
22 estate CONSERVATION in accordance with sections 12-61-726 and
23 12-61-727, C.R.S., SECTIONS 12-61-1105 AND 12-61-1106 and the
24 taxpayer files the tax credit certificate with the income tax return filed
25 with the department of revenue.

26 (3) For conservation easements donated prior to January 1, 2014,
27 in order for any taxpayer to qualify for the credit provided for in

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

5 (f) If the holder of the conservation easement is an organization
6 to which the certification program in ~~section 12-61-724~~ SECTION
7 12-61-1104 applies, a sworn affidavit from the holder of the conservation
8 easement in gross that includes the following:

9 (3.5) (a) For conservation easements donated prior to January 1,
10 2014:

11 (I) The executive director shall have the authority, pursuant to
12 subsection (8) of this section, to require additional information from the
13 taxpayer or transferee regarding the appraisal value of the easement, the
14 amount of the credit, and the validity of the credit. In resolving disputes
15 regarding the validity or the amount of a credit allowed pursuant to
16 subsection (2) of this section, including the value of the conservation
17 easement for which the credit is granted, the executive director shall have
18 the authority, for good cause shown and in consultation with the division
19 of ~~real estate~~ CONSERVATION and the conservation easement oversight
20 commission created in ~~section 12-61-725 (1), C.R.S.,~~ SUBSECTION
21 12-61-1103 (1) to review and accept or reject, in whole or in part, the
22 appraisal value of the easement, the amount of the credit, and the validity
23 of the credit based upon the internal revenue code and federal regulations
24 in effect at the time of the donation. If the executive director reasonably
25 believes that the appraisal represents a gross valuation misstatement,
26 receives notice of such a valuation misstatement from the division of real
27 estate, or receives notice from the division of real estate that an

1 enforcement action has been taken by the board of real estate appraisers
2 against the appraiser, the executive director shall have the authority to
3 require the taxpayer to provide a second appraisal at the expense of the
4 taxpayer. The second appraisal shall be conducted by a certified general
5 appraiser in good standing and not affiliated with the first appraiser that
6 meets qualifications established by the division of real estate. In the event
7 the executive director rejects, in whole or in part, the appraisal value of
8 the easement, the amount of the credit, or the validity of the credit, the
9 procedures described in sections 39-21-103, 39-21-104, 39-21-104.5, and
10 39-21-105 shall apply.

11 (II) In consultation with the division of ~~real estate~~ CONSERVATION
12 and the conservation easement oversight commission created in section
13 ~~12-61-725 (1), C.R.S.~~ SECTION 12-61-1103 (1), the executive director
14 shall develop and implement a separate process for the review by the
15 department of revenue of gross conservation easements. The review
16 process shall be consistent with the statutory obligations of the division
17 and the commission and shall address gross conservation easements for
18 which the department of revenue has been informed that an audit is being
19 performed by the internal revenue service. The executive director shall
20 share information used in the review of gross conservation easements
21 with the division. Notwithstanding part 2 of article 72 of title 24, C.R.S.,
22 in order to protect the confidential financial information of a taxpayer, the
23 division and the commission shall deny the right to inspect any
24 information provided by the executive director in accordance with this
25 subparagraph (H) SUBSECTION (3.5)(a)(II).

26 (b) For conservation easements donated on or after January 1,
27 2014, and subject to the restrictions of section 12-61-727 (4), C.R.S.

1 SECTION 12-61-1106 (4), the executive director shall have the authority,
2 pursuant to subsection (8) of this section, to require additional
3 information from the taxpayer or transferee regarding the amount of the
4 credit and the validity of the credit. In resolving disputes regarding the
5 validity or the amount of a credit allowed pursuant to subsection (2) of
6 this section, the executive director shall have the authority, for good cause
7 shown, to review and accept or reject, in whole or in part, the amount of
8 the credit and the validity of the credit based upon the internal revenue
9 code and federal regulations in effect at the time of the donation, except
10 those requirements for which authority is granted to the division of real
11 estate CONSERVATION, the director of the division of real estate
12 CONSERVATION, or the conservation easement oversight commission
13 pursuant to section 12-61-727, C.R.S. SECTION 12-61-1106.

14 (c) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
15 FOR ANY CONSERVATION EASEMENT IN GROSS DONATED FOR ANY TAX
16 YEAR COMMENCING ON OR AFTER JANUARY 1, 2000, FOR WHICH A CREDIT
17 CLAIMED PURSUANT TO THIS SECTION WAS SUBSEQUENTLY DENIED IN
18 WHOLE OR IN PART BECAUSE THE APPRAISED VALUE OF THE EASEMENT
19 WAS DETERMINED BY THE STATE TO BE TOO HIGH, THE TAXPAYER MAY
20 ELECT IN ANY SUBSEQUENT TAX YEAR TO AMEND THE RETURN FOR SUCH
21 TAX YEAR AND NOT CLAIM THE CREDIT. UPON AMENDING A RETURN AND
22 REPAYING TO THE STATE THE AMOUNT, IF ANY, ALLOWED BY THE STATE
23 AND CLAIMED BY THE TAXPAYER FOR SUCH TAX YEAR, THE TAXPAYER
24 SHALL BE ENTITLED TO REPAYMENT FROM THE STATE OF THE FULL
25 AMOUNT OF ANY INTEREST OR PENALTIES PAID BY OR ON BEHALF OF THE
26 TAXPAYER TO THE STATE IN CONNECTION WITH THE DENIAL OF THE
27 ORIGINAL CLAIM FOR THE CREDIT.

1 (3.6) For conservation easements donated on or after January 1,
2 2014, in order for any taxpayer to qualify for the credit provided for in
3 subsection (2) of this section, the taxpayer must submit the following in
4 a form, approved by the executive director, to the department of revenue
5 at the same time as the taxpayer files a return for the taxable year in
6 which the credit is claimed:

7 (a) (I) A tax credit certificate issued under section 12-61-727,
8 C.R.S. SECTION 12-61-1106; and

9 (b) Notwithstanding any other provisions of law, the executive
10 director retains the authority to administer all issues related to the claim
11 or use of a tax credit for the donation of a conservation easement that are
12 not granted to the director of the division of real estate CONSERVATION or
13 the conservation easement oversight commission under section
14 12-61-727, C.R.S. SECTION 12-61-1106.

15 (7) For income tax years commencing on or after January 1, 2000,
16 a taxpayer may transfer all or a portion of a tax credit granted pursuant to
17 subsection (2) of this section to another taxpayer for such other taxpayer,
18 as transferee, to apply as a credit against the taxes imposed by this article
19 subject to the following limitations:

20 (g) A transferee of a tax credit shall purchase the credit prior to
21 the due date imposed by this article, not including any extensions, for
22 filing the transferee's income tax return;

23 **SECTION 7.** In Colorado Revised Statutes, 39-22-522.5, **repeal**
24 (8) as follows:

25 **39-22-522.5. Conservation easement tax credits - dispute**
26 **resolution - legislative declaration.** (8) On or before August 1, 2011,
27 the conservation easement oversight commission created in section

1 12-61-725 (1), C.R.S., shall review conservation easements for which a
2 tax credit is claimed pursuant to sections 39-22-522 (3.5)(a) and
3 12-61-725 (3), C.R.S., and for which a notice of deficiency, notice of
4 rejection of refund claim, or notice of disallowance issued on or before
5 May 1, 2011, but for which a final determination has not been issued
6 before May 19, 2011, and for which the commission has not already
7 reviewed the credit. For each conservation easement tax credit claim so
8 reviewed, the commission shall issue an initial recommendation to the
9 executive director on whether each credit claimed by a taxpayer who is
10 eligible to waive a hearing and appeal a notice of deficiency, notice of
11 rejection of refund claim, or notice of disallowance may be denied or
12 accepted. No other information shall be required of the commission on or
13 before such date.

14 **SECTION 8.** In Colorado Revised Statutes, 24-1-122, **add (2)(1)**
15 as follows:

16 **24-1-122. Department of regulatory agencies - creation.**
17 **(2) The department of regulatory agencies shall consist of the following**
18 **divisions:**

19 **(1) DIVISION OF CONSERVATION, THE HEAD OF WHICH IS THE**
20 **DIRECTOR OF THE DIVISION. THE DIVISION OF CONSERVATION AND THE**
21 **DIRECTOR OF THE DIVISION, CREATED BY PART 11 OF ARTICLE 61 OF TITLE**
22 **12, SHALL EXERCISE THEIR POWERS AND PERFORM THEIR DUTIES AND**
23 **FUNCTIONS UNDER THE DEPARTMENT OF REGULATORY AGENCIES AS IF**
24 **THEY WERE TRANSFERRED TO THE DEPARTMENT BY A **TYPE 2** TRANSFER.**
25 **THE CONSERVATION EASEMENT OVERSIGHT COMMISSION, CREATED BY**
26 **SECTION 12-61-1103, AND ITS POWERS, DUTIES, AND FUNCTIONS ARE**
27 **TRANSFERRED BY A **TYPE 2** TRANSFER TO THE DEPARTMENT OF**

1 REGULATORY AGENCIES AND ALLOCATED TO THE DIVISION OF
2 CONSERVATION.

3 **SECTION 9.** In Colorado Revised Statutes, add 29-20-110 as
4 follows:

5 **29-20-110. Conservation easements - public hearing.** (1) ON
6 AND AFTER THE EFFECTIVE DATE OF THIS SECTION, PRIOR TO CREATING,
7 MODIFYING THE TERMS OF, OR TRANSFERRING A CONSERVATION
8 EASEMENT IN GROSS PURSUANT TO ARTICLE 30.5 OF TITLE 38, THE
9 GOVERNING BODY OF A LOCAL GOVERNMENT WITHIN WHICH THE
10 PROPERTY IS LOCATED SHALL HOLD A PUBLIC HEARING REGARDING THE
11 CREATION, MODIFICATION, OR TRANSFER OF THE EASEMENT AS PROVIDED
12 IN THIS SECTION. IF THE PROPERTY IS LOCATED ENTIRELY WITHIN THE
13 UNINCORPORATED PORTION OF ONE OR MORE COUNTIES, THE BOARD OF
14 COUNTY COMMISSIONERS OF THE COUNTY WITH THE GREATEST PORTION
15 OF THE PROPERTY SHALL HOLD THE HEARING. IF THE PROPERTY IS
16 LOCATED IN WHOLE OR IN PART WITHIN ONE OR MORE MUNICIPALITIES, THE
17 GOVERNING BODY OF THE MUNICIPALITY WITH THE GREATEST PORTION OF
18 THE PROPERTY SHALL HOLD THE HEARING.

19 (2) AT LEAST FOURTEEN DAYS' NOTICE OF THE TIME AND PLACE OF
20 A HEARING REQUIRED BY THIS SECTION SHALL BE GIVEN BY AT LEAST ONE
21 PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION WITHIN THE
22 LOCAL GOVERNMENT. THE NOTICE SHALL DISCLOSE THE LOCATION,
23 ACREAGE, NAME OF THE GRANTOR, NAME OF THE HOLDER, AND
24 CONSERVATION PURPOSES OF THE CONSERVATION EASEMENT AND SPECIFY
25 THE AMOUNT OF ANY PUBLIC MONEY USED OR TAX CREDITS THAT WILL BE
26 CLAIMED IN CONNECTION WITH THE EASEMENT. THE GRANTOR AND
27 HOLDER OF THE CONSERVATION EASEMENT SHALL BE ALLOWED TO

1 PRESENT INFORMATION ABOUT THE CONSERVATION EASEMENT AND PUBLIC
2 TESTIMONY SHALL BE ALLOWED AT THE HEARING. THE PURPOSE OF THE
3 HEARING IS TO PROVIDE PUBLIC NOTICE REGARDING THE EASEMENT, AND
4 THE GOVERNING BODY OF THE LOCAL GOVERNMENT NEED NOT TAKE ANY
5 SPECIFIC ACTION WITH RESPECT TO THE PROPOSED CREATION,
6 MODIFICATION, OR TRANSFER. IF A LOCAL GOVERNMENT HAS AN EXISTING
7 APPROVAL PROCESS FOR CONSERVATION EASEMENTS, THE HEARING
8 REQUIRED BY THIS SECTION MAY BE CONDUCTED IN CONJUNCTION WITH
9 ANY OTHER HEARING REQUIRED BY PROCESS AS LONG AS THE HEARING
10 OTHERWISE MEETS THE REQUIREMENTS OF THIS SECTION.

11 **SECTION 10.** In Colorado Revised Statutes, **amend 38-30.5-107**
12 as follows:

13 **38-30.5-107. Release - termination.** (1) Conservation easements
14 in gross may, in whole or in part, be released, terminated, extinguished,
15 or abandoned by merger with the underlying fee interest in the servient
16 land or water rights or in any other manner in which easements may be
17 lawfully terminated, released, extinguished, or abandoned. FOR
18 EASEMENTS CREATED ON OR AFTER JANUARY 1, 2019, IF A CONSERVATION
19 EASEMENT IS ORPHANED OR NEGLECTED, THE LANDOWNER MAY PETITION
20 THE DISTRICT COURT OF THE COUNTY IN WHICH THE PROPERTY IS SITUATED
21 TO REQUEST A TRANSFER OF THE EASEMENT TO ANOTHER HOLDER OR FOR
22 AN ORDER THAT THE ABANDONMENT OR NEGLECT OF THE CONSERVATION
23 EASEMENT HAS RESULTED IN CIRCUMSTANCES WHICH MAKE THE
24 CONTINUED USE OF THE PROPERTY FOR CONSERVATION PURPOSES
25 IMPOSSIBLE OR IMPRACTICABLE. THE PETITION TO THE DISTRICT COURT
26 SHALL ALSO BE SERVED ON THE ATTORNEY GENERAL AND THE ATTORNEY
27 GENERAL SHALL BE ENTITLED TO BE HEARD.

1 (2) IN ADDITION TO THE METHODS SET FORTH IN SUBSECTION (1)
2 OF THIS SECTION, A COURT EXERCISING ITS EQUITABLE JURISDICTION MAY
3 TERMINATE A CONSERVATION EASEMENT IN GROSS CREATED FOR THE
4 PURPOSE OF CLAIMING A STATE INCOME TAX CREDIT PURSUANT TO
5 SECTION 39-22-522, IF:

6 (a) THE STATE HAS REJECTED THE CLAIM FOR THE CREDIT OR THE
7 TAXPAYER HAS ELECTED NOT TO CLAIM THE CREDIT PURSUANT TO SECTION
8 39-22-522 (5)(c);

9 (b) THE EASEMENT HAS BEEN APPRAISED TO HAVE NO VALUE OR
10 NO MORE THAN A NOMINAL DOLLAR VALUE; AND

11 (c) THE HOLDER OF THE EASEMENT EITHER PROVIDED NO
12 COMPENSATION FOR THE EASEMENT OR HAS BEEN REIMBURSED IN WHOLE
13 FOR ANY COMPENSATION PROVIDED.

14 (3) THE DIVISION OF CONSERVATION SHALL DEVELOP A WRITTEN
15 FORM TO WARN LANDOWNERS WHO HAVE CONSERVATION EASEMENTS ON
16 THEIR PROPERTY OF THE LEGAL AND OTHER CONSEQUENCES OF
17 RELEASING, TERMINATING, OR EXTINGUISHING A CONSERVATION
18 EASEMENT. THE FORM SHALL INCLUDE A WARNING OF THE POTENTIAL
19 FEDERAL TAX CONSEQUENCES, POTENTIAL LEGAL CLAIMS BY EASEMENT
20 HOLDERS AND OTHER PARTIES FOR BREACH OF CONTRACT, POTENTIAL
21 FINANCIAL EXPENSE, AND SUCH OTHER INFORMATION AS THE DIVISION
22 FINDS APPROPRIATE TO HELP A LANDOWNER MAKE AN INFORMED DECISION
23 AND PROTECT HIS OR HER INTERESTS PRIOR TO RELEASING, TERMINATING,
24 OR EXTINGUISHING AN EASEMENT. PRIOR TO RELEASING, TERMINATING, OR
25 EXTINGUISHING A CONSERVATION EASEMENT, A LANDOWNER SHALL
26 NOTIFY THE DIVISION OF CONSERVATION OF THE LANDOWNER'S INTENT TO
27 RELEASE, TERMINATE, OR EXTINGUISH THE EASEMENT. UPON RECEIVING

1 A NOTIFICATION PURSUANT TO THIS SUBSECTION (3), THE DIVISION OF
2 CONSERVATION SHALL PROVIDE A WRITTEN WARNING TO THE LANDOWNER
3 SETTING FORTH THE POTENTIAL LEGAL CONSEQUENCES OF RELEASING,
4 TERMINATING, OR EXTINGUISHING AN EASEMENT. THE DIVISION OF
5 CONSERVATION CREATED IN SECTION 12-61-1102 SHALL DEVELOP A
6 NOTICE TO BE PROVIDED TO ANY LANDOWNER ATTEMPTING TO RELEASE,
7 TERMINATE, OR EXTINGUISH A CONSERVATION EASEMENT.

8 **SECTION 11.** In Colorado Revised Statutes, 24-34-104, repeal
9 (14)(a)(II); and add (26)(a)(VIII) and (26)(a)(IX) as follows:

10 **24-34-104. General assembly review of regulatory agencies**
11 **and functions for repeal, continuation, or reestablishment - legislative**
12 **declaration - repeal.** (14) (a) The following agencies, functions, or both,
13 are scheduled for repeal on July 1, 2018:

14 (II) The conservation easement oversight commission created in
15 section 12-61-725, C.R.S.;

16 (26) (a) The following agencies, functions, or both, are scheduled
17 for repeal on September 1, 2025:

18 (VIII) THE CONSERVATION EASEMENT OVERSIGHT COMMISSION
19 CREATED IN SECTION 12-61-1103; AND

20 (IX) THE CERTIFICATION OF CONSERVATION EASEMENT HOLDERS
21 BY THE CONSERVATION EASEMENT OVERSIGHT COMMISSION AS PROVIDED
22 FOR IN SECTION 12-61-1104.

23 **SECTION 12.** In Colorado Revised Statutes, repeal 12-61-724,
24 12-61-725, 12-61-726, and 12-61-727.

25 **SECTION 13. Safety clause.** The general assembly hereby finds,
26 determines, and declares that this act is necessary for the immediate
27 preservation of the public peace, health, and safety.