

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 24-0505.01 Jed Franklin x5484

SENATE BILL 24-126

SENATE SPONSORSHIP

Will and Winter F., Pelton R., Roberts

HOUSE SPONSORSHIP

Lukens and Lynch, Armagost, Hartsook, Martinez, Velasco

Senate Committees

Agriculture & Natural Resources

House Committees

A BILL FOR AN ACT

101 CONCERNING THE CONSERVATION EASEMENT INCOME TAX CREDIT,
102 AND, IN CONNECTION THEREWITH, EXTENDING THE
103 CONSERVATION EASEMENT OVERSIGHT COMMISSION AND THE
104 CERTIFIED HOLDER PROGRAM INDEFINITELY, INCREASING THE
105 LIMIT ON CONSERVATION EASEMENT INCOME TAX CREDITS
106 AVAILABLE TO DONORS IN ONE CALENDAR YEAR, AND ALLOWING
107 MULTIPLE TRANSFERS OF CONSERVATION EASEMENT INCOME
108 TAX CREDITS.

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

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

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

Under current law, the conservation easement oversight commission (commission) and the certified holder program (program) are repealed on July 1, 2026. The bill eliminates the repeal dates to extend the commission and program indefinitely.

There is currently a cap of \$45 million for the total value of conservation easement income tax credits (credits) that may be claimed by and credited to donors of a conservation easement in one calendar year. Credits filed after the cap is reached are placed on a wait list for the next calendar year. The bill increases the cap to \$75 million beginning in calendar year 2025.

Current law provides that partnerships, S corporations, or other similar entities (pass-through entities) may not be transferees of a credit. The bill allows pass-through entities to be transferees of a credit beginning on January 1, 2025. The bill also allows insurance companies to purchase credits to offset insurance premium taxes.

Currently, a credit may be transferred once, in whole or in part, from a donor to a transferee. The bill allows a transferee to transfer a credit to a subsequent transferee beginning with the income tax year starting on January 1, 2025.

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

2 **SECTION 1.** In Colorado Revised Statutes, 12-15-103, **repeal** (8)
3 as follows:

4 **12-15-103. Conservation easement oversight commission -**
5 **created.** (8) ~~This section is repealed, effective July 1, 2026.~~

6 **SECTION 2.** In Colorado Revised Statutes, 12-15-104, **repeal**
7 (13) as follows:

8 **12-15-104. Certification of conservation easement holders -**
9 **rules - definition.** (13) ~~This section is repealed, effective July 1, 2026.~~

10 **SECTION 3.** In Colorado Revised Statutes, 38-30.5-103, **add** (7)
11 as follows:

12 **38-30.5-103. Nature of conservation easements in gross.** (7) A
13 CONSERVATION EASEMENT IN GROSS IS A REAL PROPERTY INTEREST AS

1 DEFINED IN SECTION 38-30.5-102 THAT IS TO BE CREATED, ADMINISTERED,
2 STEWARDED, ENFORCED, MODIFIED, AND TERMINATED PURSUANT TO THIS
3 ARTICLE 30.5 AND, AS APPLICABLE, SECTION 39-22-522.

4 **SECTION 4.** In Colorado Revised Statutes, 39-22-522, **amend**
5 (2.5); and **add** (1)(c), (7.3), and (12) as follows:

6 **39-22-522. Credit against tax - conservation easements -**
7 **definitions.** (1) For purposes of this section:

8 (c) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
9 1, 2025, "TRANSFeree" MEANS ANY PERSON OR ENTITY FILING A STATE
10 INCOME TAX RETURN OR A DOMESTIC OR FOREIGN CORPORATION SUBJECT
11 TO THE PROVISIONS OF PART 3 OF THIS ARTICLE 22, A PARTNERSHIP, S
12 CORPORATION, OR OTHER SIMILAR PASS-THROUGH ENTITY, ESTATE, TRUST,
13 NONPROFIT ENTITY, OR AN ENTITY THAT HAS AUTHORITY TO CONDUCT
14 WATER ACTIVITIES, AS DEFINED BY SECTION 37-45.1-102 (3) AND CREATED
15 PURSUANT TO ARTICLE 41, 45, 46, 47, 48, OR 50 OF TITLE 37, OR ARTICLE
16 42 OF TITLE 7, THAT IS TRANSFERRED A CONSERVATION EASEMENT INCOME
17 TAX CREDIT PURSUANT TO SUBSECTION (7) OR (7.3) OF THIS SECTION.

18 (2.5) Notwithstanding any other provision of this section and the
19 requirements of section 12-15-106, for income tax years commencing on
20 or after January 1, 2011, a taxpayer conveying a conservation easement
21 and claiming a credit pursuant to this section shall, in addition to any
22 other requirements of this section and the requirements of section
23 12-15-106, submit a claim for the credit to the division of conservation
24 in the department of regulatory agencies. The division shall issue a
25 certificate for the claims received in the order submitted. After certificates
26 have been issued for credits that exceed an aggregate of twenty-two
27 million dollars for all taxpayers for the 2011 and 2012 calendar years,

1 thirty-four million dollars for the 2013 calendar year, ~~and~~ forty-five
2 million dollars for each OF THE 2014 TO 2024 calendar ~~year thereafter~~
3 YEARS, AND SEVENTY-FIVE MILLION DOLLARS FOR EACH CALENDAR YEAR
4 THEREAFTER, any claims that exceed the amount allowed for a specified
5 calendar year shall be placed on a wait list in the order submitted and a
6 certificate shall be issued for use of the credit in the next year for which
7 the division has not issued credit certificates in excess of the amounts
8 specified in this subsection (2.5); except that no more than fifteen million
9 dollars in claims shall be placed on the wait list in any given calendar
10 year. The division shall not issue credit certificates that exceed
11 twenty-two million dollars in each of the 2011 and 2012 calendar years,
12 thirty-four million dollars for the 2013 calendar year, ~~and~~ forty-five
13 million dollars for each OF THE 2014 TO 2024 calendar ~~year thereafter~~
14 YEARS, AND SEVENTY-FIVE MILLION DOLLARS FOR EACH CALENDAR YEAR
15 THEREAFTER. No claim for a credit is allowed for any income tax year
16 commencing on or after January 1, 2011, unless a certificate has been
17 issued by the division. If all other requirements under section 12-15-106
18 and this section are met, the right to claim the credit is vested in the
19 taxpayer at the time a credit certificate is issued.

20 (7.3) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
21 JANUARY 1, 2025, A TRANSFEREE OF A CREDIT TRANSFERRED PURSUANT
22 TO SUBSECTION (7) OF THIS SECTION OR A SUBSEQUENT TRANSFEREE OF A
23 CREDIT TRANSFERRED PURSUANT TO THIS SUBSECTION (7.3) MAY BECOME
24 A SUBSEQUENT TRANSFEROR BY SUBSEQUENTLY TRANSFERRING ALL OR A
25 PORTION OF A TAX CREDIT GRANTED PURSUANT TO SUBSECTION (2) OF THIS
26 SECTION. THE SUBSEQUENT TRANSFEREE MAY APPLY THE TRANSFERRED
27 CREDIT AGAINST THE TAXES IMPOSED BY THIS ARTICLE 22 AS FOLLOWS

1 AND SUBJECT TO THE FOLLOWING LIMITATIONS:

2 (a) A SUBSEQUENT TRANSFEROR MAY ONLY TRANSFER SUCH
3 PORTION OF THE TAX CREDIT AS THE SUBSEQUENT TRANSFEROR HAS
4 NEITHER APPLIED AGAINST THE INCOME TAXES IMPOSED BY THIS ARTICLE
5 22;

6 (b) A SUBSEQUENT TRANSFEROR MAY TRANSFER A PRO-RATED
7 PORTION OF THE TAX CREDIT TO MORE THAN ONE SUBSEQUENT
8 TRANSFEREE;

9 (c) A SUBSEQUENT TRANSFEREE MAY NOT ELECT TO HAVE ANY
10 TRANSFERRED CREDIT REFUNDED PURSUANT TO SUBSECTION (5)(b) OF
11 THIS SECTION;

12 (d) TO THE EXTENT THAT A SUBSEQUENT TRANSFEREE PAID VALUE
13 TO A SUBSEQUENT TRANSFEROR FOR THE TRANSFER OF A CONSERVATION
14 EASEMENT TAX CREDIT, THE SUBSEQUENT TRANSFEREE IS DEEMED TO
15 HAVE USED THE CREDIT TO PAY, IN WHOLE OR IN PART, THE INCOME TAX
16 OBLIGATION IMPOSED ON THE SUBSEQUENT TRANSFEREE UNDER THIS
17 ARTICLE 22, AND TO SUCH EXTENT THE SUBSEQUENT TRANSFEREE'S USE OF
18 A TAX CREDIT FROM A TRANSFEROR UNDER THIS SECTION TO PAY TAXES
19 OWED IS NOT A REDUCTION IN THE AMOUNT OF INCOME TAXES IMPOSED BY
20 THIS ARTICLE 22 ON THE SUBSEQUENT TRANSFEREE;

21 (e) A SUBSEQUENT TRANSFEROR AND SUBSEQUENT TRANSFEREE
22 SHALL JOINTLY FILE A COPY OF THE WRITTEN NOTICE OF TRANSFER WITH
23 THE DIVISION OF CONSERVATION WITHIN THIRTY DAYS OF THE TRANSFER
24 PURSUANT TO SUBSECTION (3.5)(b)(II) OF THIS SECTION;

25 (f) A SUBSEQUENT TRANSFEREE OF A TAX CREDIT SHALL PURCHASE
26 THE CREDIT PRIOR TO THE DUE DATE IMPOSED BY THIS ARTICLE 22,
27 INCLUDING ANY EXTENSIONS, FOR FILING THE SUBSEQUENT TRANSFEREE'S

1 INCOME TAX RETURN; AND

2 (g) A TAX CREDIT HELD BY A SUBSEQUENT TRANSFEREE WHO IS AN
3 INDIVIDUAL DOES NOT SURVIVE THE DEATH OF THE INDIVIDUAL, AND MAY
4 NOT BE CLAIMED OR TRANSFERRED BY THE INDIVIDUAL'S ESTATE UNLESS
5 USED BY THE INDIVIDUAL'S ESTATE FOR TAXES OWED BY THE ESTATE,
6 EXCEPT THAT THE INDIVIDUAL'S SURVIVING SPOUSE MAY CLAIM THE TAX
7 CREDIT TO THE EXTENT IT HAS NOT BEEN APPLIED TO TAXES OWED BY THE
8 INDIVIDUAL'S ESTATE. THIS SUBSECTION (7.3)(g) APPLIES TO ANY TAX
9 CREDIT FROM A DONATION OF A CONSERVATION EASEMENT MADE ON OR
10 AFTER JANUARY 1, 2025.

11 (12) ANY TRANSFEREE WHO IS SUBJECT TO THE TAX ON INSURANCE
12 PREMIUMS ESTABLISHED BY SECTIONS 10-3-209, 10-5-111, AND 10-6-128,
13 AND WHO IS THEREFORE EXEMPT FROM THE PAYMENT OF INCOME TAX AND
14 WHO IS OTHERWISE ELIGIBLE TO CLAIM A TAX CREDIT PURSUANT TO THIS
15 SECTION MAY CLAIM THE TAX CREDIT AND CARRY THE TAX CREDIT
16 FORWARD AGAINST THE INSURANCE PREMIUM TAX ON ITS CALENDAR
17 QUARTER ESTIMATED TAX PAYMENTS MADE IN ACCORDANCE WITH
18 SECTION 10-3-209 TO THE SAME EXTENT AS THE TRANSFEREE WOULD
19 HAVE BEEN ABLE TO CLAIM OR CARRY FORWARD THE TAX CREDIT AGAINST
20 INCOME TAX. ALL OTHER PROVISIONS OF THIS SECTION WITH RESPECT TO
21 THE TAX CREDIT, INCLUDING THE AMOUNT AND ALLOCATION OF THE TAX
22 CREDIT AND THE YEARS FOR WHICH THE TAX CREDIT MAY BE CLAIMED
23 SHALL APPLY TO A TAX CREDIT CLAIMED PURSUANT TO THIS SECTION.

24 **SECTION 5. Act subject to petition - effective date.** This act
25 takes effect at 12:01 a.m. on the day following the expiration of the
26 ninety-day period after final adjournment of the general assembly; except
27 that, if a referendum petition is filed pursuant to section 1 (3) of article V

1 of the state constitution against this act or an item, section, or part of this
2 act within such period, then the act, item, section, or part will not take
3 effect unless approved by the people at the general election to be held in
4 November 2024 and, in such case, will take effect on the date of the
5 official declaration of the vote thereon by the governor.