

HOUSE COMMITTEE OF REFERENCE REPORT

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Chair of Committee

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Date

April 22, 2021

Committee on Finance.

After consideration on the merits, the Committee recommends the following:

HB21-1233 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, page 3, strike lines 8 through 18 and substitute:

2 "SECTION 3. In Colorado Revised Statutes, 39-21-113, **add** (29)  
3 as follows:

4 **39-21-113. Reports and returns - rule.** (29) NOTWITHSTANDING  
5 THE PROVISIONS OF THIS SECTION:

6 (a) THE EXECUTIVE DIRECTOR MAY PROVIDE SUCH DETAILED  
7 TAXPAYER INFORMATION PERTINENT TO A CLAIM FOR AN INCOME TAX  
8 CREDIT FOR THE DONATION OF A PERPETUAL CONSERVATION EASEMENT IN  
9 GROSS PURSUANT TO SECTION 39-22-522 TO TAXPAYERS, INCLUDING  
10 OWNERS AND TRANSFEREES, WITH CASES INVOLVING COMMON OR  
11 RELATED ISSUES OF FACT OR LAW. WITH THE EXCEPTION OF TAXPAYER  
12 CONTACT INFORMATION, ANY INFORMATION PROVIDED PURSUANT TO THIS  
13 SUBSECTION (29) MUST REMAIN CONFIDENTIAL, AND ALL PERSONS ARE  
14 SUBJECT TO THE LIMITATIONS SPECIFIED IN SUBSECTION (4) OF THIS  
15 SECTION AND THE PENALTIES SPECIFIED IN SUBSECTION (6) OF THIS  
16 SECTION.

17 (b) THE EXECUTIVE DIRECTOR MAY REQUIRE THAT SUCH DETAILED  
18 TAXPAYER INFORMATION PERTINENT TO A CLAIM FOR AN INCOME TAX  
19 CREDIT FOR THE DONATION OF A PERPETUAL CONSERVATION EASEMENT  
20 PURSUANT TO SECTION 39-22-522 AND ANY DOCUMENTATION IN SUPPORT  
21 OF THE CREDIT CLAIMED BE GIVEN TO THE DIVISION OF CONSERVATION AS  
22 THE EXECUTIVE DIRECTOR DETERMINES IS NECESSARY IN THE  
23 PERFORMANCE OF THE DEPARTMENT'S FUNCTIONS RELATING TO THE

1 CREDIT. IN RESOLVING DISPUTES REGARDING THE CREDIT, THE EXECUTIVE  
2 DIRECTOR MAY DISCLOSE SUCH DETAILED TAXPAYER INFORMATION AND  
3 CONSULT WITH THE DIVISION OF CONSERVATION. NOTWITHSTANDING PART  
4 2 OF ARTICLE 72 OF TITLE 24, IN ORDER TO PROTECT THE CONFIDENTIAL  
5 FINANCIAL INFORMATION OF A TAXPAYER, THE EXECUTIVE DIRECTOR  
6 SHALL DENY THE RIGHT TO INSPECT ANY INFORMATION OR  
7 DOCUMENTATION REQUIRED IN ACCORDANCE WITH THIS SUBSECTION  
8 (29)."

9 Page 3, line 20, after "(3.5)(b)," insert "(3.6)," and after "(4)(b)," insert  
10 "(5)(b)(III)."

11 Page 3, line 21, after "(4)(a)(II.7)" insert "and (7.5)".

12 Page 3, line 22, strike "easements." and substitute "easements -  
13 definition."

14 Page 5, line 4, strike "2022," and substitute "2021,".

15 Page 5, strike lines 14 through 27 and substitute:

16 "(II) FOR TAX CREDIT CERTIFICATES ISSUED BY THE DIVISION FOR  
17 USE ON OR AFTER JANUARY 1, 2021, THE TRANSFEROR AND TRANSFEREE  
18 OF THE TAX CREDIT SHALL JOINTLY FILE A COPY OF THE WRITTEN  
19 TRANSFER AGREEMENT WITH THE DIVISION OF CONSERVATION WITHIN  
20 THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (3.5)(b)(II)  
21 OR THE DATE OF THE TRANSFER, WHICHEVER IS LATER. IF THE CREDIT  
22 BEING TRANSFERRED WAS ISSUED FOR A YEAR OTHER THAN THE YEAR IN  
23 WHICH IT IS TRANSFERRED, THE TRANSFEROR SHALL FURTHER SUBMIT A  
24 COPY OF THE TRANSFEROR'S DR1305 FORM FOR EACH YEAR FROM THE  
25 YEAR FOR WHICH THE CREDIT WAS ISSUED THROUGH THE MOST RECENT  
26 YEAR FOR WHICH TAXES WERE DUE. THE DIVISION SHALL ISSUE A  
27 CERTIFICATE TO THE TRANSFEREE IN THE AMOUNT OF THE TAX CREDIT  
28 TRANSFERRED AND, IF ANY AMOUNT IS RETAINED BY THE TRANSFEROR,  
29 ISSUE A CERTIFICATE TO THE TRANSFEROR IN THE AMOUNT RETAINED. THE  
30 DIVISION SHALL DEVELOP A SYSTEM TO TRACK THE TRANSFERS OF TAX  
31 CREDITS AND TO CERTIFY THE OWNERSHIP OF TAX CREDITS. A  
32 CERTIFICATION BY THE DIVISION OF THE OWNERSHIP AND AMOUNT OF TAX  
33 CREDITS SHALL BE RELIED UPON BY THE DEPARTMENT OF REVENUE AND  
34 THE TRANSFEREE AS BEING ACCURATE, AND NEITHER THE DIVISION NOR  
35 THE DEPARTMENT OF REVENUE SHALL ADJUST THE AMOUNT OF TAX

1 CREDITS AS TO THE TRANSFEREE; EXCEPT THAT THE DIVISION AND  
2 DEPARTMENT RETAIN ANY REMEDIES IT MAY HAVE AGAINST THE  
3 LANDOWNER. THE DIVISION MAY PROMULGATE RULES TO PERMIT  
4 VERIFICATION OF THE OWNERSHIP AND AMOUNT OF THE TAX CREDITS;  
5 EXCEPT THAT ANY RULES PROMULGATED SHALL NOT UNDULY RESTRICT OR  
6 HINDER THE TRANSFER OF THE TAX CREDITS."

7 Page 6, strike lines 1 through 11 and substitute:

8 "(3.6) (a) For conservation easements donated on or after January  
9 1, 2014, in order for any taxpayer to qualify for CLAIM the credit provided  
10 for in subsection (2) of this section, the taxpayer must submit the  
11 following in a form, approved by the executive director, to the department  
12 of revenue at the same time as the taxpayer files a return for the taxable  
13 year in which the credit is claimed:

14 (a) (I) A tax credit certificate issued under section 12-15-106; and

15 (II) The information required in ~~subsections (3)(a), (3)(b), (3)(d),~~  
16 ~~and (3)(f)(H)~~ SUBSECTIONS (3)(a) AND (3)(b) of this section.

17 (b) Notwithstanding any other provisions of law, the executive  
18 director retains the authority to administer all issues related to the claim  
19 or use of a tax credit for the donation of a conservation easement that are  
20 not granted to the director of the division of conservation or the  
21 conservation easement oversight commission under section 12-15-106.

22 (c) ~~The information required in paragraph (f) of subsection (3) of~~  
23 ~~this section will no longer be required from the holder of the conservation~~  
24 ~~easement."~~

25 Page 7, line 3, strike "THAT IS" and substitute "EQUAL TO NINETY".

26 Page 7, strike line 4.

27 Page 7, line 14, after "(b)" insert "(I)".

28 Page 7, line strike line 21 and substitute:

29 "income or ownership percentage from such entity or group.

30 (II) (A) For income".

31 Page 8, strike line 2 and substitute:

32 "dollars for that income tax year.

33 (B) For income tax years commencing on or".



1 Page 8, strike line 10 and substitute:

2 "tax year.

3 (C) For income tax years commencing on or after January 1,  
4 2007,".

5 Page 8, strike line 18 and substitute:

6 "year.

7 (D) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY  
8 1,".

9 Page 8, strike lines 26 and 27 and substitute:

10 "(5) (b) (III) If any refund is claimed pursuant to ~~subparagraph (I)~~  
11 ~~of this paragraph (b)~~ SUBSECTION (5)(b)(I) OF THIS SECTION, then the  
12 aggregate amount of the refund and amount of the credit used as an offset  
13 against income taxes, EXCLUDING AMOUNTS TRANSFERRED TO OR USED BY  
14 A TRANSFEREE, for that income tax year shall not exceed fifty thousand  
15 dollars for that income tax year. In the case of a partnership, S  
16 corporation, or other similar pass-through entity that donates a  
17 conservation easement as an entity, if any refund is claimed pursuant to  
18 ~~subparagraph (I) of this paragraph (b)~~ SUBSECTION (5)(b)(I) OF THIS  
19 SECTION, the aggregate amount of the refund and the credit claimed by the  
20 partners, members, or shareholders of the entity shall not exceed the  
21 dollar limitation set forth in this ~~subparagraph (III)~~ SUBSECTION (5)(b)(III)  
22 for that income tax year. Nothing in this ~~subparagraph (III)~~ SUBSECTION  
23 (5)(b)(III) shall limit a taxpayer's ability to claim a credit against taxes  
24 due in excess of fifty thousand dollars in accordance with subsection (4)  
25 of this section."

26 Page 9, strike lines 1 through 10 and substitute:

27 "(6) (a) For conservation easements donated prior to January 1,  
28 2014, a taxpayer may claim only one tax credit under this section per  
29 income tax year; except that a transferee of a tax credit under subsection  
30 (7) of this section may claim an unlimited number of credits. A taxpayer  
31 who has carried forward or elected to receive a refund of part of the tax  
32 credit in accordance with subsection (5) of this section shall not claim an  
33 additional tax credit under this section for any income tax year  
34 COMMENCING PRIOR TO JANUARY 1, 2014, in which the taxpayer applies  
35 the amount carried forward against income tax due or receives a refund.  
36 A ~~taxpayer~~ TRANSFEROR who has transferred a credit to a transferee



1 pursuant to subsection (7) of this section shall not claim an additional tax  
2 credit under this section for any income tax year COMMENCING PRIOR TO  
3 JANUARY 1, 2014, in which the transferee uses such transferred credit.  
4 COMMENCING JANUARY 1, 2014, A TAXPAYER MAY CLAIM ONE TAX  
5 CREDIT PER YEAR REGARDLESS OF WHETHER THE TAXPAYER HAS CREDITS  
6 REMAINING FROM ANY PRIOR CONSERVATION EASEMENT DONATION."

7 Page 10, after line 18 insert:

8 "(7.5) (a) FOR INCOME TAX YEARS COMMENCING ON OR AFTER  
9 JANUARY 1, 2021, IN LIEU OF A CREDIT WITH RESPECT TO THE INCOME  
10 TAXES IMPOSED BY THIS ARTICLE 22, THERE IS ALLOWED A TRANSFERABLE  
11 EXPENSE AMOUNT TO EACH QUALIFIED ENTITY THAT DONATES DURING THE  
12 TAXABLE YEAR ALL OR PART OF THE VALUE OF A PERPETUAL  
13 CONSERVATION EASEMENT IN GROSS CREATED PURSUANT TO ARTICLE 30.5  
14 OF TITLE 38 UPON REAL PROPERTY THE QUALIFIED ENTITY OWNS TO A  
15 GOVERNMENTAL ENTITY OR A CHARITABLE ORGANIZATION DESCRIBED IN  
16 SECTION 38-30.5-104 (2). A TRANSFERABLE EXPENSE AMOUNT SHALL BE  
17 TREATED IN ALL MANNERS AS A TAX CREDIT FOR PURPOSES OF THIS  
18 SECTION, INCLUDING PROVISIONS GOVERNING THE AMOUNT, VALUATION,  
19 AND TRANSFER OF A TAX CREDIT; EXCEPT THAT THE TRANSFERABLE  
20 EXPENSE AMOUNT MAY ONLY BE TRANSFERRED TO A TRANSFEREE TO BE  
21 CLAIMED BY THE TRANSFEREE AS A CREDIT PURSUANT TO THIS SECTION. A  
22 QUALIFIED ENTITY MAY TRANSFER A TRANSFERABLE EXPENSE AMOUNT TO  
23 BE CLAIMED AS A CREDIT BY A TRANSFEREE PURSUANT TO THIS SECTION  
24 REGARDLESS OF WHETHER THE QUALIFIED ENTITY RECEIVES VALUE IN  
25 EXCHANGE FOR THE TRANSFER.

26 (b) AS USED IN THIS SUBSECTION (7.5), "QUALIFIED ENTITY" MEANS  
27 A GOVERNMENTAL ENTITY THAT MEETS THE DEFINITION OF "TAXPAYER"  
28 AS SET FORTH IN SUBSECTION (1)(b) OF THIS SECTION BUT IS OTHERWISE  
29 EXEMPT FROM THE INCOME TAXES IMPOSED BY THIS ARTICLE 22."

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