

**Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO**

**Conference Committee**

*This Unproved and Unofficial Version Includes All Amendments  
Adopted in the First House, Second House, and the Conference Committee*

LLS NO. 18-0394.01 Gregg Fraser x4325

**HOUSE BILL 18-1291**

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**HOUSE SPONSORSHIP**

**Winter and Thurlow,**

**SENATE SPONSORSHIP**

**Sonnenberg,**

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**House Committees**

Transportation & Energy  
Appropriations

**Senate Committees**

State, Veterans, & Military Affairs  
Finance  
Appropriations

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**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.**

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**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.

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.

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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  
12 (e) ESTABLISHING THE DIVISION OF CONSERVATION TO ADMINISTER  
13 THE CONSERVATION EASEMENT TAX CREDIT PROGRAM WILL:

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

18 (II) ALLOW THE CONSERVATION EASEMENT OVERSIGHT  
19 COMMISSION TO ADVISE THE DIVISION OF CONSERVATION AND THE  
20 DEPARTMENT OF REVENUE REGARDING CONSERVATION EASEMENTS FOR  
21 WHICH A TAX CREDIT IS CLAIMED AND TO REVIEW APPLICATIONS FOR  
22 CONSERVATION EASEMENT HOLDER CERTIFICATION; AND

23 (III) ENSURE THAT THE DIVISION OF CONSERVATION AND THE  
24 DEPARTMENT OF REVENUE ARE SHARING RELEVANT INFORMATION  
25 CONCERNING CONSERVATION EASEMENT APPRAISALS IN ORDER TO ENSURE  
26 COMPLIANCE WITH ACCEPTED APPRAISAL PRACTICES AND OTHER  
27 PROVISIONS OF LAW.

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

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

20           **12-61-1103. Conservation easement oversight commission -**  
21 **created - repeal.** (1) THERE IS HEREBY CREATED IN THE DIVISION A  
22 CONSERVATION EASEMENT OVERSIGHT COMMISSION. THE COMMISSION  
23 SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS  
24 UNDER THE DIVISION AS IF TRANSFERRED THERETO BY A **TYPE 2** TRANSFER,  
25 AS DEFINED IN THE "ADMINISTRATIVE ORGANIZATION ACT OF 1968",  
26 ARTICLE 1 OF TITLE 24. THE COMMISSION CONSISTS OF EIGHT MEMBERS AS  
27 FOLLOWS:

1           (a) ONE MEMBER REPRESENTING THE GREAT OUTDOORS  
2 COLORADO PROGRAM, APPOINTED BY AND SERVING AS AN ADVISORY,  
3 NONVOTING MEMBER AT THE PLEASURE OF THE STATE BOARD OF THE  
4 GREAT OUTDOORS COLORADO TRUST FUND ESTABLISHED IN ARTICLE  
5 XXVII OF THE STATE CONSTITUTION;

6           (b) ONE VOTING MEMBER REPRESENTING THE DEPARTMENT OF  
7 NATURAL RESOURCES, APPOINTED BY AND SERVING AT THE PLEASURE OF  
8 THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES;

9           (c) ONE VOTING MEMBER REPRESENTING THE DEPARTMENT OF  
10 AGRICULTURE, APPOINTED BY AND SERVING AT THE PLEASURE OF THE  
11 EXECUTIVE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE;

12           (d) THREE VOTING MEMBERS APPOINTED BY THE GOVERNOR AS  
13 FOLLOWS:

14           (I) TWO VOTING REPRESENTATIVES OF CERTIFIED CONSERVATION  
15 EASEMENT HOLDERS; AND

16           (II) A VOTING INDIVIDUAL WHO IS COMPETENT AND QUALIFIED TO  
17 ANALYZE THE CONSERVATION PURPOSE OF CONSERVATION EASEMENTS;  
18 AND

19           (e) TWO VOTING MEMBERS OF THE GENERAL PUBLIC, ONE  
20 APPOINTED BY THE PRESIDENT OF THE SENATE TO SERVE AT THE PLEASURE  
21 OF THE PRESIDENT AND ONE APPOINTED BY THE SPEAKER OF THE HOUSE OF  
22 REPRESENTATIVES TO SERVE AT THE PLEASURE OF THE SPEAKER.  
23 APPOINTMENTS MADE PURSUANT TO THIS SUBSECTION (1)(e) ARE FOR  
24 THREE-YEAR TERMS AND NO MEMBER SHALL SERVE MORE THAN TWO  
25 CONSECUTIVE TERMS.

26           (2) IN MAKING APPOINTMENTS TO THE COMMISSION, THE  
27 GOVERNOR SHALL CONSULT WITH THE THREE MEMBERS OF THE

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

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

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

24 (4) THE COMMISSION SHALL MEET AT LEAST QUARTERLY. THE  
25 DIVISION SHALL CONVENE THE MEETINGS OF THE COMMISSION AND  
26 PROVIDE STAFF SUPPORT AS REQUESTED BY THE COMMISSION. A MAJORITY  
27 OF THE VOTING MEMBERS OF THE COMMISSION CONSTITUTES A QUORUM

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

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

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

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

22 (8) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2019.

23 **12-61-1104. Certification of conservation easement holders -**  
24 **rules - definition - repeal.** (1) THE DIVISION SHALL, IN CONSULTATION  
25 WITH THE COMMISSION CREATED IN SECTION 12-61-1103, ESTABLISH AND  
26 ADMINISTER A CERTIFICATION PROGRAM FOR QUALIFIED ORGANIZATIONS  
27 UNDER SECTION 170 (h) OF THE FEDERAL "INTERNAL REVENUE CODE OF

1 1986", AS AMENDED, THAT HOLD CONSERVATION EASEMENTS FOR WHICH  
2 A TAX CREDIT IS CLAIMED PURSUANT TO SECTION 39-22-522. THE  
3 PURPOSES OF THE PROGRAM ARE TO:

4 (a) ESTABLISH MINIMUM QUALIFICATIONS FOR CERTIFYING  
5 ORGANIZATIONS THAT HOLD CONSERVATION EASEMENTS TO ENCOURAGE  
6 PROFESSIONALISM AND STABILITY; AND

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

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

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

18 (b) THE APPLICANT'S STEWARDSHIP PRACTICES AND CAPACITY,  
19 INCLUDING THE ABILITY TO MAINTAIN, MONITOR, AND DEFEND THE  
20 PURPOSES OF THE EASEMENT;

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

22 (d) THE APPLICANT'S SYSTEM OF GOVERNANCE AND ETHICS  
23 REGARDING CONFLICTS OF INTEREST AND TRANSACTIONS WITH RELATED  
24 PARTIES AS DESCRIBED IN SECTION 267 (b) OF THE FEDERAL "INTERNAL  
25 REVENUE CODE OF 1986", AS AMENDED, DONORS, BOARD MEMBERS, AND  
26 INSIDERS. FOR PURPOSES OF THIS SUBSECTION (2)(d), "INSIDERS" MEANS  
27 BOARD AND STAFF MEMBERS, SUBSTANTIAL CONTRIBUTORS, PARTIES



1 RELATED TO THOSE ABOVE, THOSE WHO HAVE AN ABILITY TO INFLUENCE  
2 DECISIONS OF THE ORGANIZATION, AND THOSE WITH ACCESS TO  
3 INFORMATION NOT AVAILABLE TO THE GENERAL PUBLIC.

4 (e) ANY OTHER INFORMATION DEEMED RELEVANT BY THE DIVISION  
5 OR THE COMMISSION; AND

6 (f) THE UNIQUE CIRCUMSTANCES OF THE DIFFERENT ENTITIES TO  
7 WHICH THIS CERTIFICATION APPLIES AS SET FORTH IN SUBSECTION (4) OF  
8 THIS SECTION.

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

23 (4) THE CERTIFICATION PROGRAM APPLIES TO:

24 (a) NONPROFIT ENTITIES HOLDING EASEMENTS ON PROPERTY WITH  
25 CONSERVATION VALUES CONSISTING OF RECREATION OR EDUCATION,  
26 PROTECTION OF ENVIRONMENTAL SYSTEMS, OR PRESERVATION OF OPEN  
27 SPACE;

1 (b) NONPROFIT ENTITIES HOLDING EASEMENTS ON PROPERTY FOR  
2 HISTORIC PRESERVATION; AND

3 (c) THE STATE AND ANY MUNICIPALITY, COUNTY, CITY AND  
4 COUNTY, SPECIAL DISTRICT, OR OTHER POLITICAL SUBDIVISION OF THE  
5 STATE THAT HOLDS AN EASEMENT.

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

11 (6) THE COMMISSION SHALL MEET AT LEAST QUARTERLY AND  
12 MAKE RECOMMENDATIONS TO THE DIVISION REGARDING THE  
13 CERTIFICATION PROGRAM. THE DIVISION IS AUTHORIZED TO DETERMINE  
14 WHETHER AN APPLICANT FOR CERTIFICATION POSSESSES THE NECESSARY  
15 QUALIFICATIONS FOR CERTIFICATION REQUIRED BY THE RULES ADOPTED  
16 BY THE DIVISION. IF THE DIVISION DETERMINES THAT AN APPLICANT DOES  
17 NOT POSSESS THE APPLICABLE QUALIFICATIONS FOR CERTIFICATION OR  
18 THAT THE APPLICANT HAS VIOLATED ANY PROVISION OF THIS PART 11, THE  
19 RULES PROMULGATED BY THE DIVISION, OR ANY DIVISION ORDER, THE  
20 DIVISION MAY DENY THE APPLICANT A CERTIFICATION OR DENY THE  
21 RENEWAL OF A CERTIFICATION, AND, IN SUCH INSTANCE, THE DIVISION  
22 SHALL PROVIDE THE APPLICANT WITH A STATEMENT IN WRITING SETTING  
23 FORTH THE BASIS OF THE DIVISION'S DETERMINATION. THE APPLICANT MAY  
24 REQUEST A HEARING ON THE DETERMINATION AS PROVIDED IN SECTION  
25 24-4-104 (9). THE DIVISION SHALL NOTIFY SUCCESSFUL APPLICANTS IN  
26 WRITING. AN APPLICANT THAT IS NOT CERTIFIED MAY REAPPLY FOR  
27 CERTIFICATION IN ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE

1 DIVISION.

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

5 (a) ALLOWING FOR THE EXPEDITED OR AUTOMATIC CERTIFICATION  
6 OF AN ENTITY THAT IS CURRENTLY ACCREDITED BY NATIONAL LAND  
7 CONSERVATION ORGANIZATIONS THAT ARE BROADLY ACCEPTED BY THE  
8 CONSERVATION INDUSTRY;

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

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

19 (d) THE ADOPTION OF BEST PRACTICES, PROCESSES, AND  
20 PROCEDURES USED BY OTHER ENTITIES THAT REGULARLY REVIEW  
21 CONSERVATION EASEMENT TRANSACTIONS, INCLUDING A PRACTICE,  
22 PROCESS, OR PROCEDURE DEEMING QUALIFIED CONSERVATION EASEMENT  
23 APPRAISALS APPROVED BY THESE ENTITIES BASED ON THEIR INDEPENDENT  
24 REVIEWS AS CREDIBLE FOR PURPOSES OF THE CONSERVATION EASEMENT  
25 TAX CREDIT.

26 (8) A CONSERVATION EASEMENT TAX CREDIT CERTIFICATE  
27 APPLICATION MAY BE SUBMITTED PURSUANT TO SECTION 12-61-1106

1 ONLY IF THE ENTITY HAS BEEN CERTIFIED IN ACCORDANCE WITH THIS  
2 SECTION AT THE TIME THE DONATION OF THE EASEMENT IS MADE. THE  
3 DIVISION SHALL MAKE INFORMATION AVAILABLE TO THE PUBLIC  
4 CONCERNING THE DATE THAT IT COMMENCES ACCEPTING APPLICATIONS  
5 FOR ENTITIES THAT HOLD CONSERVATION EASEMENTS AND THE  
6 REQUIREMENTS OF THIS SUBSECTION (8).

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

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

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

23 (12) NOTHING IN THIS SECTION:

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

27 (b) REQUIRES THE CERTIFICATION OF AN ENTITY THAT HOLDS A

1 CONSERVATION EASEMENT FOR WHICH A TAX CREDIT IS NOT CLAIMED  
2 PURSUANT TO SECTION 39-22-522.

3 (13) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2019.

4 **12-61-1105. Conservation easement tax credit certificates -**

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

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

16 (b) THE ADMINISTRATION AND FINANCING OF THE CERTIFICATION  
17 PROCESS;

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

21 (d) THE NOTIFICATION TO THE LANDOWNER, THE ENTITY TO WHICH  
22 THE EASEMENT WAS GRANTED, AND THE DEPARTMENT OF REVENUE  
23 REGARDING THE TAX CREDIT CERTIFICATES ISSUED; AND

24 (e) ANY OTHER MATTERS RELATED TO ADMINISTERING SECTION  
25 39-22-522 (2.5) OR THIS PART 11.

26 (2) THE DIVISION SHALL APPLY THE AMOUNT CLAIMED IN A  
27 COMPLETED TAX CREDIT CERTIFICATE APPLICATION AGAINST THE ANNUAL

1 TAX CREDIT LIMIT IN THE ORDER THAT COMPLETED APPLICATIONS ARE  
2 RECEIVED. THE DIVISION SHALL APPLY CLAIMED TAX CREDIT AMOUNTS  
3 THAT EXCEED THE ANNUAL LIMIT IN ANY YEAR AGAINST THE LIMIT FOR  
4 THE NEXT AVAILABLE YEAR AND ISSUE TAX CREDIT CERTIFICATES FOR USE  
5 IN THE YEAR IN WHICH THE AMOUNT WAS APPLIED TO THE ANNUAL LIMIT.

6 (3) THE DIVISION SHALL NOT ISSUE TAX CREDIT CERTIFICATES  
7 THAT IN AGGREGATE EXCEED THE LIMIT SET FORTH IN SECTION 39-22-522  
8 (2.5) DURING A PARTICULAR CALENDAR YEAR.

9 **12-61-1106. Conservation easement tax credit certificate**  
10 **application process - definitions - rules.** (1) FOR PURPOSES OF THIS  
11 SECTION:

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

15 (b) "CONSERVATION PURPOSE" MEANS CONSERVATION PURPOSE AS  
16 DEFINED IN SECTION 170 (h) OF THE FEDERAL "INTERNAL REVENUE CODE  
17 OF 1986", AS AMENDED, AND ANY FEDERAL REGULATIONS PROMULGATED  
18 IN CONNECTION WITH SUCH SECTION.

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

22 (d) "DEFICIENCY" MEANS NONCOMPLIANCE WITH A REQUIREMENT  
23 FOR OBTAINING A TAX CREDIT CERTIFICATE THAT, UNLESS SUCH  
24 NONCOMPLIANCE IS REMEDIED, IS GROUNDS FOR THE DENIAL OF A TAX  
25 CREDIT CERTIFICATE APPLICATION SUBMITTED PURSUANT TO THIS  
26 SECTION.

27 (e) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OF

1 CONSERVATION OR HIS OR HER DESIGNEE.

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

6 (g) "TAX CREDIT CERTIFICATE" MEANS THE CONSERVATION  
7 EASEMENT TAX CREDIT CERTIFICATE ISSUED PURSUANT TO SECTION  
8 12-61-1105 AND THIS SECTION.

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

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

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

22 (III) COMPLIES WITH THE REQUIREMENTS OF THIS SECTION.

23 (b) THE LANDOWNER HAS THE BURDEN OF PROOF REGARDING  
24 COMPLIANCE WITH ALL APPLICABLE LAWS, RULES, AND REGULATIONS.

25 (3) FOR THE PURPOSE OF REVIEWING APPLICATIONS AND MAKING  
26 DETERMINATIONS REGARDING THE ISSUANCE OF TAX CREDIT  
27 CERTIFICATES, INCLUDING THE DOLLAR AMOUNT OF THE TAX CREDIT

1 CERTIFICATE TO BE ISSUED:

2 (a) DIVISION STAFF SHALL REVIEW EACH APPLICATION AND ADVISE  
3 AND MAKE RECOMMENDATIONS TO THE DIRECTOR AND THE COMMISSION  
4 REGARDING THE APPLICATION;

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

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

15 (II) THE APPRAISAL CONFORMS WITH THE UNIFORM STANDARDS OF  
16 PROFESSIONAL APPRAISAL PRACTICE PROMULGATED BY THE APPRAISAL  
17 STANDARDS BOARD OF THE APPRAISAL FOUNDATION AND ANY OTHER  
18 PROVISION OF LAW;

19 (III) THE APPRAISER HOLDS A VALID LICENSE AS A CERTIFIED  
20 GENERAL APPRAISER IN ACCORDANCE WITH PART 7 OF THIS TITLE 12; AND

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

24

25 (c) THE DIRECTOR HAS THE AUTHORITY AND RESPONSIBILITY TO  
26 DETERMINE COMPLIANCE WITH THE REQUIREMENTS OF SECTION  
27 12-61-1104.



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

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

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

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

15

16 (b) A COPY OF THE RECORDED DEED GRANTING THE  
17 CONSERVATION EASEMENT;

18 (c) DOCUMENTATION SUPPORTING THE CONSERVATION PURPOSE  
19 OF THE EASEMENT;

20 (d) ANY OTHER INFORMATION OR DOCUMENTATION THE DIRECTOR  
21 OR THE COMMISSION DEEMS NECESSARY TO MAKE A FINAL  
22 DETERMINATION REGARDING THE APPLICATION; AND

23 (e) THE FEE REQUIRED PURSUANT TO SUBSECTION (6) OF THIS  
24 SECTION.

25 (6) A LANDOWNER SUBMITTING AN APPLICATION FOR A TAX  
26 CREDIT CERTIFICATE PURSUANT TO THIS SECTION OR AN APPLICATION FOR  
27 AN OPTIONAL PRELIMINARY ADVISORY OPINION PURSUANT TO SUBSECTION

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

15 (7) (a) IF, DURING THE REVIEW OF AN APPLICATION FOR A TAX  
16 CREDIT CERTIFICATE, THE DIRECTOR OR THE COMMISSION IDENTIFIES ANY  
17 POTENTIAL DEFICIENCIES, THE DIRECTOR OR COMMISSION SHALL  
18 DOCUMENT THE POTENTIAL DEFICIENCIES IN A LETTER SENT TO THE  
19 LANDOWNER BY FIRST CLASS MAIL. THE DIVISION SHALL SEND LETTERS  
20 DOCUMENTING POTENTIAL DEFICIENCIES TO LANDOWNERS IN A TIMELY  
21 MANNER SO THAT THE NUMBER OF DAYS BETWEEN THE DATE A  
22 COMPLETED APPLICATION IS RECEIVED BY THE DIVISION AND THE MAILING  
23 DATE OF THE DIVISION'S LETTER TO THE LANDOWNER DOES NOT EXCEED  
24 ONE HUNDRED TWENTY DAYS.

25 (b) THE LANDOWNER HAS SIXTY DAYS AFTER THE MAILING DATE  
26 OF THE DIVISION'S LETTER TO ADDRESS THE POTENTIAL DEFICIENCIES  
27 IDENTIFIED BY THE DIRECTOR AND THE COMMISSION AND PROVIDE

1 ADDITIONAL INFORMATION OR DOCUMENTATION THAT THE DIRECTOR OR  
2 THE COMMISSION DEEMS NECESSARY TO MAKE A FINAL DETERMINATION  
3 REGARDING THE APPLICATION.

4 (c) THE DIRECTOR AND THE COMMISSION HAVE NINETY DAYS  
5 AFTER THE DATE OF RECEIPT OF ANY ADDITIONAL INFORMATION OR  
6 DOCUMENTATION PROVIDED BY THE LANDOWNER TO REVIEW THE  
7 INFORMATION AND DOCUMENTATION AND MAKE A FINAL DETERMINATION  
8 REGARDING THE APPLICATION.

9 (d) THE DEADLINES PRESCRIBED BY THIS SUBSECTION (7) MAY BE  
10 EXTENDED UPON MUTUAL AGREEMENT BETWEEN THE DIRECTOR AND THE  
11 COMMISSION AND THE LANDOWNER.

12 (8) THE DIRECTOR OR THE COMMISSION MAY DENY AN  
13 APPLICATION IF THE LANDOWNER:

14 (a) HAS NOT DEMONSTRATED TO THE SATISFACTION OF THE  
15 DIRECTOR OR THE COMMISSION THAT THE APPLICATION COMPLIES WITH  
16 ANY REQUIREMENT OF THIS PART 11;

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

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

21 (9) IF THE DIRECTOR REASONABLY BELIEVES THAT ANY APPRAISAL  
22 SUBMITTED IN ACCORDANCE WITH THIS SECTION IS NOT CREDIBLE, THE  
23 DIRECTOR, AFTER CONSULTATION WITH THE COMMISSION, MAY REQUEST  
24 THAT THE LANDOWNER, AT THE LANDOWNER'S EXPENSE, OBTAIN EITHER  
25 A SECOND APPRAISAL OR A REVIEW OF THE APPRAISAL SUBMITTED WITH  
26 THE APPLICATION FROM AN APPRAISER WHO MEETS THE REQUIREMENTS OF  
27 PART 7 OF THIS TITLE 12 AND IS IN GOOD STANDING WITH THE BOARD

1 BEFORE MAKING A FINAL DETERMINATION REGARDING THE APPLICATION.

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

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

21 (b) IF ANY POTENTIAL DEFICIENCIES THAT HAVE BEEN IDENTIFIED  
22 ARE NOT SUBSEQUENTLY ADDRESSED TO THE SATISFACTION OF THE  
23 DIRECTOR AND THE COMMISSION, THE DIVISION SHALL ISSUE A WRITTEN  
24 DENIAL OF THE APPLICATION TO THE LANDOWNER DOCUMENTING THOSE  
25 DEFICIENCIES THAT WERE THE SPECIFIC BASIS FOR THE DENIAL. THE  
26 DIVISION SHALL DATE THE WRITTEN DENIAL AND SEND IT BY FIRST CLASS  
27 MAIL TO THE LANDOWNER AT THE ADDRESS PROVIDED BY THE

1 LANDOWNER ON THE APPLICATION. THE DIRECTOR MAY ACT ON BEHALF OF  
2 THE COMMISSION FOR PURPOSES OF ADMINISTERING THE PROCESS FOR  
3 ISSUING APPROVALS AND DENIALS OF APPLICATIONS AND FOR  
4 ADMINISTERING SUBSECTION (12) OF THIS SECTION.

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

10 (b) IF THE LANDOWNER FAILS TO APPEAL THE DENIAL OF AN  
11 APPLICATION WITHIN THIRTY DAYS AFTER THE ISSUANCE OF THE DENIAL,  
12 THE DENIAL BECOMES FINAL, AND THE DIVISION SHALL NOT ISSUE A TAX  
13 CREDIT CERTIFICATE TO THE LANDOWNER.

14 (c) ADMINISTRATIVE HEARINGS MUST BE CONDUCTED IN  
15 ACCORDANCE WITH SECTION 24-4-105. AT THE DISCRETION OF THE  
16 DIRECTOR, HEARINGS MAY BE CONDUCTED BY AN AUTHORIZED  
17 REPRESENTATIVE OF THE DIRECTOR OR THE COMMISSION OR AN  
18 ADMINISTRATIVE LAW JUDGE FROM THE OFFICE OF ADMINISTRATIVE  
19 COURTS IN THE DEPARTMENT OF PERSONNEL. ALL HEARINGS MUST BE  
20 HELD IN THE COUNTY WHERE THE DIVISION IS LOCATED UNLESS THE  
21 DIRECTOR DESIGNATES OTHERWISE. THE DECISION OF THE DIRECTOR OR  
22 THE COMMISSION IS SUBJECT TO JUDICIAL REVIEW BY THE COURT OF  
23 APPEALS AND IS SUBJECT TO THE PROVISIONS OF SECTION 24-4-106.

24 (d) IN CONDUCTING SETTLEMENT DISCUSSIONS WITH A  
25 LANDOWNER, THE DIRECTOR AND THE COMMISSION MAY COMPROMISE ON  
26 ANY OF THE DEFICIENCIES IDENTIFIED IN THE APPLICATION AND  
27 SUPPORTING DOCUMENTATION, INCLUDING THE DOLLAR AMOUNT OF THE

1 TAX CREDIT CERTIFICATE TO BE ISSUED. THE DIRECTOR SHALL PLACE ON  
2 FILE IN THE DIVISION A RECORD OF ANY COMPROMISE AND THE REASONS  
3 FOR THE COMPROMISE.

4 (e) THE DIRECTOR MAY PROMULGATE RULES PURSUANT TO  
5 ARTICLE 4 OF TITLE 24 TO EFFECTUATE THE PURPOSES OF THIS SUBSECTION  
6 (12).

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

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

14 (II) FOR APPLICATIONS APPROVED IN ACCORDANCE WITH THIS  
15 SECTION:

16 (A) THE TOTAL ACREAGE UNDER EASEMENT SUMMARIZED BY THE  
17 ALLOWABLE CONSERVATION PURPOSES AS DEFINED IN SECTION 170 (h) OF  
18 THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, AND  
19 ANY FEDERAL REGULATIONS PROMULGATED IN CONNECTION WITH SUCH  
20 SECTION;

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

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

23 (D) THE TOTAL DOLLAR AMOUNT OF TAX CREDIT CERTIFICATES  
24 ISSUED.

25 (b) THE DIVISION MAY INCLUDE ADDITIONAL EASEMENT-SPECIFIC  
26 INFORMATION IN THE PUBLIC REPORT THAT, NOTWITHSTANDING THE  
27 PROVISIONS OF THIS PART 11 OR ANY OTHER LAW TO THE CONTRARY,

1 WOULD OTHERWISE BE PUBLICLY AVAILABLE.

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

18 (I) ANY DEEDS, CONTRACTS, OR OTHER INSTRUMENTS CREATING,  
19 ASSIGNING, OR TERMINATING THE EASEMENT, INCLUDING THE RECEPTION  
20 NUMBERS ON ALL INSTRUMENTS;

21 (II) THE LOCATION AND ACREAGE OF EACH EASEMENT,  
22 DELINEATED BY COUNTY;

23 (III) THE NAME OF THE ORIGINAL GRANTOR OF THE EASEMENT AND  
24 THE NAME OF THE ORIGINAL GRANTEE OF THE EASEMENT.

25 (IV) WHETHER THE HOLDER OF THE EASEMENT IS A CERTIFIED  
26 ORGANIZATION PURSUANT TO SECTION 12-61-1104;

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

1 (VI) IF A TAX CREDIT WAS ISSUED.

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

10 (b) THE DIVISION, THE DIRECTOR, AND THE COMMISSION SHALL  
11 REVIEW THE INFORMATION AND DOCUMENTATION PROVIDED IN A MANNER  
12 CONSISTENT WITH THE SCOPE OF THEIR AUTHORITY AND RESPONSIBILITIES  
13 FOR REVIEWING TAX CREDIT CERTIFICATE APPLICATIONS AS OUTLINED IN  
14 SUBSECTION (3) OF THIS SECTION AND ISSUE EITHER A FAVORABLE OPINION  
15 OR A NONFAVORABLE OPINION.

16 (c) THE DIRECTOR OR THE COMMISSION MAY REQUEST THAT THE  
17 LANDOWNER SUBMIT ADDITIONAL INFORMATION OR DOCUMENTATION  
18 THAT THE DIRECTOR OR THE COMMISSION DEEMS NECESSARY TO  
19 COMPLETE THE REVIEW AND ISSUE AN OPINION.

20 (d) A NONFAVORABLE OPINION SHALL SET FORTH ANY POTENTIAL  
21 DEFICIENCIES IDENTIFIED BY THE DIRECTOR OR THE COMMISSION AND  
22 THAT FALL WITHIN THE SCOPE OF THE DIRECTOR'S AND THE COMMISSION'S  
23 REVIEW OF THE CONSERVATION EASEMENT TRANSACTION. THE  
24 PRELIMINARY OPINION IS ADVISORY ONLY AND IS NOT BINDING FOR ANY  
25 PURPOSE UPON THE DIVISION, THE DIRECTOR, THE COMMISSION, OR THE  
26 DEPARTMENT OF REVENUE.

27 (15) THE DIVISION MAY PROMULGATE RULES TO EFFECTUATE THE



1 PURPOSE, IMPLEMENTATION, AND ADMINISTRATION OF THIS SECTION  
2 PURSUANT TO ARTICLE 4 OF TITLE 24. THE AUTHORITY TO PROMULGATE  
3 RULES INCLUDES THE AUTHORITY TO DEFINE FURTHER IN RULE THE  
4 ADMINISTRATIVE PROCESSES AND REQUIREMENTS, INCLUDING  
5 APPLICATION PROCESSING AND REVIEW TIME FRAMES, FOR OBTAINING AND  
6 ISSUING AN OPTIONAL PRELIMINARY ADVISORY OPINION PURSUANT TO  
7 SUBSECTION (14) OF THIS SECTION.

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

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

24 **12-61-1107. Conservation cash fund - repeal.** (1) THERE IS  
25 HEREBY CREATED IN THE STATE TREASURY THE CONSERVATION CASH  
26 FUND, WHICH CONSISTS OF ANY MONEYS TRANSFERRED PURSUANT TO  
27 SECTION 12-61-1104 AND 12-61-1106 AND ANY GIFTS, GRANTS, AND

1 DONATIONS PROVIDED TO CARRY OUT THE PURPOSES OF THIS PART 11. ALL  
2 MONEY IN THE FUND SHALL BE USED AS PROVIDED IN THIS PART 11.  
3 INTEREST EARNED ON THE FUND SHALL REMAIN IN THE FUND AND SHALL  
4 NOT BE DEPOSITED IN OR TRANSFERRED TO THE GENERAL FUND OR ANY  
5 OTHER FUND.

6 (2) AS SOON AS PRACTICABLE AFTER THE EFFECTIVE DATE OF THIS  
7 SUBSECTION (2), THE STATE TREASURER SHALL TRANSFER TO THE  
8 CONSERVATION CASH FUND ANY MONEYS IN THE DIVISION OF REAL ESTATE  
9 CASH FUND CREATED IN THE SECTION 12-61-111.5 THAT ARE  
10 ATTRIBUTABLE TO ANY FEES, GIFTS, GRANTS, OR DONATIONS CREDITED TO  
11 THE DIVISION OF REAL ESTATE CASH FUND IN ACCORDANCE WITH SECTION  
12 12-61-724 (3) OR SECTION 12-61-727 THAT ARE IN THE FUND  
13 IMMEDIATELY PRIOR TO THE REPEAL OF SECTIONS 12-61-724 AND  
14 12-61-727. THIS SUBSECTION (2) IS REPEALED EFFECTIVE JULY 1, 2019.

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

17 **12-61-111.5. Fee adjustments - cash fund created - repeal.**  
18 (2) (b) (II) (A) ~~On June 30, 2017, the state treasurer shall transfer to the~~  
19 ~~division of real estate cash fund all unexpended and unencumbered~~  
20 ~~money that remained in the HOA information and resource center cash~~  
21 ~~fund created in section 12-61-406.5, the conservation easement holder~~  
22 ~~certification fund created in section 12-61-724, the conservation easement~~  
23 ~~tax credit certificate review fund created in section 12-61-727, and the~~  
24 ~~mortgage company and loan originator licensing cash fund created in~~  
25 ~~section 12-61-908 immediately prior to the repeal of those funds.~~

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

1           **12-61-702. Definitions.** As used in this part 7, unless the context  
2 otherwise requires:

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

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

7           **12-61-704. Powers and duties of the board - rules.** (1) In  
8 addition to all other powers and duties imposed upon it by law, the board  
9 has the following powers and duties:

10           (k) To establish classroom education and experience requirements  
11 for an appraiser who prepares an appraisal for a conservation easement  
12 for which a tax credit is claimed pursuant to section 39-22-522. ~~C.R.S.~~  
13 The requirements must ensure that appraisers have a sufficient amount of  
14 training and expertise to accurately prepare appraisals that comply with  
15 the uniform standards of professional appraisal practice and any other  
16 provision of law related to the appraisal of conservation easements for  
17 which a tax credit is claimed. A tax credit certificate for a conservation  
18 easement shall not be given in accordance with ~~sections 12-61-726 and~~  
19 ~~12-61-727~~ SECTIONS 12-61-1105 AND 12-61-1106 unless the appraiser  
20 who prepared the appraisal of the easement met all requirements  
21 established in accordance with this ~~paragraph (k)~~ SUBSECTION (1)(k) in  
22 effect at the time the ~~appraisal was completed~~ APPRAISAL CERTIFICATION  
23 IS SIGNED.

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

26           **39-21-113. Reports and returns - rule.** (17) Notwithstanding  
27 any other provision of this section, the executive director may require that

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

16 **SECTION 6.** In Colorado Revised Statutes, 39-22-522, **amend**  
17 (2.5), (2.7), (3)(f) introductory portion, (3.5), (3.6)(a)(I), (3.6)(b), and  
18 (7)(g); and **add** (3.8) as follows:

19 **39-22-522. Credit against tax - conservation easements.**

20

21

22 (2.5) Notwithstanding any other provision of this section and the  
23 requirements of ~~section 12-61-727, C.R.S.~~ SECTION 12-61-1106, for  
24 income tax years commencing on or after January 1, 2011, a taxpayer  
25 conveying a conservation easement and claiming a credit pursuant to this  
26 section shall, in addition to any other requirements of this section and the  
27 requirements of ~~section 12-61-727, C.R.S.~~ SECTION 12-61-1106, submit

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

22 (2.7) Notwithstanding any other provision, for income tax years  
23 commencing on or after January 1, 2014, no claim for a credit shall be  
24 allowed unless a tax credit certificate is issued by the division of ~~real~~  
25 ~~estate~~ CONSERVATION in accordance with ~~sections 12-61-726 and~~  
26 ~~12-61-727, C.R.S.~~, SECTIONS 12-61-1105 AND 12-61-1106 and the  
27 taxpayer files the tax credit certificate with the income tax return filed

1 with the department of revenue.

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

8  
9 (f) If the holder of the conservation easement is an organization  
10 to which the certification program in ~~section 12-61-724~~ SECTION  
11 12-61-1104 applies, a sworn affidavit from the holder of the conservation  
12 easement in gross that includes the following:

13 (3.5) (a) For conservation easements donated prior to January 1,  
14 2014:

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

1 in effect at the time of the donation. If the executive director reasonably  
2 believes that the appraisal represents a gross valuation misstatement,  
3 receives notice of such a valuation misstatement from the division of real  
4 estate, or receives notice from the division of real estate that an  
5 enforcement action has been taken by the board of real estate appraisers  
6 against the appraiser, the executive director shall have the authority to  
7 require the taxpayer to provide a second appraisal at the expense of the  
8 taxpayer. The second appraisal shall be conducted by a certified general  
9 appraiser in good standing and not affiliated with the first appraiser that  
10 meets qualifications established by the division of real estate. In the event  
11 the executive director rejects, in whole or in part, the appraisal value of  
12 the easement, the amount of the credit, or the validity of the credit, the  
13 procedures described in sections 39-21-103, 39-21-104, 39-21-104.5, and  
14 39-21-105 shall apply.

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

1 information provided by the executive director in accordance with this  
2 ~~subparagraph (H)~~ SUBSECTION (3.5)(a)(II).

3 (b) For conservation easements donated on or after January 1,  
4 2014, and subject to the restrictions of ~~section 12-61-727 (4), C.R.S.~~  
5 SECTION 12-61-1106 (4), the executive director shall have the authority,  
6 pursuant to subsection (8) of this section, to require additional  
7 information from the taxpayer or transferee regarding the amount of the  
8 credit and the validity of the credit. In resolving disputes regarding the  
9 validity or the amount of a credit allowed pursuant to subsection (2) of  
10 this section, the executive director shall have the authority, for good cause  
11 shown, to review and accept or reject, in whole or in part, the amount of  
12 the credit and the validity of the credit based upon the internal revenue  
13 code and federal regulations in effect at the time of the donation, except  
14 those requirements for which authority is granted to the division of ~~real~~  
15 ~~estate~~ CONSERVATION, the director of the division of ~~real-estate~~  
16 CONSERVATION, or the conservation easement oversight commission  
17 pursuant to ~~section 12-61-727, C.R.S.~~ SECTION 12-61-1106.

18

19

20 (3.6) For conservation easements donated on or after January 1,  
21 2014, in order for any taxpayer to qualify for the credit provided for in  
22 subsection (2) of this section, the taxpayer must submit the following in  
23 a form, approved by the executive director, to the department of revenue  
24 at the same time as the taxpayer files a return for the taxable year in  
25 which the credit is claimed:

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



1 (b) Notwithstanding any other provisions of law, the executive  
2 director retains the authority to administer all issues related to the claim  
3 or use of a tax credit for the donation of a conservation easement that are  
4 not granted to the director of the division of ~~real estate~~ CONSERVATION or  
5 the conservation easement oversight commission under ~~section~~  
6 ~~12-61-727, C.R.S.~~ SECTION 12-61-1106.

7 (3.8) (a) THE DIVISION OF CONSERVATION SHALL CONVENE A  
8 WORKING GROUP IN CONJUNCTION WITH THE DEPARTMENT OF LAW, THE  
9 DEPARTMENT OF REVENUE, AND THE DEPARTMENT OF REGULATORY  
10 AGENCIES TO DEVELOP STATUTORY AND REGULATORY  
11 RECOMMENDATIONS THAT DO NOT CONFLICT WITH FEDERAL LAW FOR THE  
12 FOLLOWING:

13 (I) AN ALTERNATE METHOD TO THE APPRAISAL PROCESS SET FORTH  
14 IN SUBSECTION (3.3) OF THIS SECTION TO ESTABLISH A BASELINE PROPERTY  
15 VALUE, USING AGREED UPON PUBLICLY AVAILABLE DATASETS FOR RURAL  
16 AND AGRICULTURAL PROPERTIES. THE BASELINE VALUATION WOULD THEN  
17 BE SUBJECT TO DIFFERENT LEVELS OF RESTRICTION INCLUDING, BUT NOT  
18 LIMITED TO, A MOST RESTRICTIVE, MEDIUM RESTRICTIVE, AND LEAST  
19 RESTRICTIVE EASEMENT TO ARRIVE AT A FINAL DETERMINATION  
20 ESTABLISHED THROUGH PUBLIC POLICY FROM WHICH THE AMOUNT OF A  
21 TAX CREDIT COULD BE CALCULATED PURSUANT TO THIS SECTION. THE  
22 ALTERNATE METHOD SHOULD WORK ACROSS THE STATE OF COLORADO.

23 (II) A RECOMMENDATION FOR A PROCESS TO PETITION A COURT OF  
24 COMPETENT JURISDICTION CONSISTENT WITH FEDERAL LAWS AND  
25 REGULATIONS TO EXTINGUISH A CONSERVATION EASEMENT, INCLUDING  
26 PROPOSED DEFINITIONS FOR THE TERMS "IMPOSSIBLE" AND  
27 "IMPRACTICABLE" AS THEY ARE APPLIED FOR PURPOSES OF DETERMINING

1 WHETHER AN EASEMENT MAY BE EXTINGUISHED UNDER STATE AND  
2 FEDERAL LAW;

3 (III) A PROCESS TO PROVIDE RETROACTIVE TAX CREDITS TO  
4 TAXPAYERS WHO CLAIMED TAX CREDITS PURSUANT TO THIS SECTION  
5 BETWEEN JANUARY 1, 2000, AND DECEMBER 31, 2008, AND WHOSE TAX  
6 CREDITS WERE DENIED IN WHOLE OR IN PART, INCLUDING THE  
7 DEVELOPMENT OF ELIGIBILITY CRITERIA FOR SUCH RETROACTIVE TAX  
8 CREDITS; AND

9 (IV) THE DEVELOPMENT OF A WRITTEN FORM TO WARN  
10 LANDOWNERS WHO HAVE CONSERVATION EASEMENTS ON THEIR PROPERTY  
11 OF THE LEGAL AND OTHER CONSEQUENCES OF TERMINATING AN EASEMENT  
12 ON THEIR PROPERTY.

13 (b) THE WORKING GROUP SHALL SUBMIT A REPORT TO THE  
14 TRANSPORTATION AND ENERGY COMMITTEE OF THE HOUSE OF  
15 REPRESENTATIVES, THE AGRICULTURE, LIVESTOCK, AND NATURAL  
16 RESOURCES COMMITTEE OF THE HOUSE OF REPRESENTATIVES, THE  
17 AGRICULTURE, NATURAL RESOURCES, AND ENERGY COMMITTEE OF THE  
18 SENATE, AND THE TRANSPORTATION COMMITTEE OF THE SENATE NO LATER  
19 THAN DECEMBER 1, 2018. THE REPORT MUST INCLUDE ANY  
20 RECOMMENDATIONS FOR LEGISLATION OR RULEMAKING TO ADDRESS THE  
21 ISSUES ADDRESSED PURSUANT TO THIS SUBSECTION (3.8).

22

23

24 (7) For income tax years commencing on or after January 1, 2000,  
25 a taxpayer may transfer all or a portion of a tax credit granted pursuant to  
26 subsection (2) of this section to another taxpayer for such other taxpayer,  
27 as transferee, to apply as a credit against the taxes imposed by this article

1 subject to the following limitations:

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

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

7 **39-22-522.5. Conservation easement tax credits - dispute**  
8 **resolution - legislative declaration.** (8) ~~On or before August 1, 2011,~~  
9 ~~the conservation easement oversight commission created in section~~  
10 ~~12-61-725 (1), C.R.S., shall review conservation easements for which a~~  
11 ~~tax credit is claimed pursuant to sections 39-22-522 (3.5)(a) and~~  
12 ~~12-61-725 (3), C.R.S., and for which a notice of deficiency, notice of~~  
13 ~~rejection of refund claim, or notice of disallowance issued on or before~~  
14 ~~May 1, 2011, but for which a final determination has not been issued~~  
15 ~~before May 19, 2011, and for which the commission has not already~~  
16 ~~reviewed the credit. For each conservation easement tax credit claim so~~  
17 ~~reviewed, the commission shall issue an initial recommendation to the~~  
18 ~~executive director on whether each credit claimed by a taxpayer who is~~  
19 ~~eligible to waive a hearing and appeal a notice of deficiency, notice of~~  
20 ~~rejection of refund claim, or notice of disallowance may be denied or~~  
21 ~~accepted. No other information shall be required of the commission on or~~  
22 ~~before such date.~~

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

25 **24-1-122. Department of regulatory agencies - creation.**  
26 (2) The department of regulatory agencies shall consist of the following  
27 divisions:

1 (I) DIVISION OF CONSERVATION, THE HEAD OF WHICH IS THE  
2 DIRECTOR OF THE DIVISION. THE DIVISION OF CONSERVATION AND THE  
3 DIRECTOR OF THE DIVISION, CREATED BY PART 11 OF ARTICLE 61 OF TITLE  
4 12, SHALL EXERCISE THEIR POWERS AND PERFORM THEIR DUTIES AND  
5 FUNCTIONS UNDER THE DEPARTMENT OF REGULATORY AGENCIES AS IF  
6 THEY WERE TRANSFERRED TO THE DEPARTMENT BY A **TYPE 2** TRANSFER.  
7 THE CONSERVATION EASEMENT OVERSIGHT COMMISSION, CREATED BY  
8 SECTION 12-61-1103, AND ITS POWERS, DUTIES, AND FUNCTIONS ARE  
9 TRANSFERRED BY A **TYPE 2** TRANSFER TO THE DEPARTMENT OF  
10 REGULATORY AGENCIES AND ALLOCATED TO THE DIVISION OF  
11 CONSERVATION.

12  
13  
14  
15 **SECTION 9.** In Colorado Revised Statutes, 24-34-104, **repeal**  
16 (14)(a)(II) as follows:

17 **24-34-104. General assembly review of regulatory agencies**  
18 **and functions for repeal, continuation, or reestablishment - legislative**  
19 **declaration - repeal.** (14) (a) The following agencies, functions, or both,  
20 are scheduled for repeal on July 1, 2018:

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

23  
24  
25 **SECTION 10.** In Colorado Revised Statutes, **repeal** 12-61-724,  
26 12-61-725, 12-61-726, and 12-61-727.

27 **SECTION 11. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.