

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

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 22-1014.01 Jason Gelender x4330

SENATE BILL 22-208

SENATE SPONSORSHIP

Winter and Simpson, Donovan, Jaquez Lewis, Woodward

HOUSE SPONSORSHIP

Lynch and Roberts,

Senate Committees
Finance

House Committees
Finance

A BILL FOR AN ACT

101 **CONCERNING JUST COMPENSATION FOR THE CONDEMNATION OF**
102 **PROPERTY ENCUMBERED BY A CONSERVATION EASEMENT IN**
103 **GROSS.**

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>.)

The bill specifies that if property encumbered by a conservation easement in gross is condemned through an eminent domain proceeding, just compensation must be determined based on the value of the property as if unencumbered by the conservation easement in gross and must be allocated between the fee owner and the holder of the conservation

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
Amended 2nd Reading
May 3, 2022

SENATE
3rd Reading Unamended
April 27, 2022

SENATE
2nd Reading Unamended
April 26, 2022

easement based upon the value of their respective interests in the property.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 38-30.5-107
3 as follows:

4 **38-30.5-107. Release - termination.** If it is determined that
5 conditions on or surrounding a property encumbered by a conservation
6 easement in gross change so that it becomes impossible to fulfill its
7 conservation purposes that are defined in the deed of conservation
8 easement, a court with jurisdiction may, at the joint request of both the
9 owner of property encumbered by a conservation easement and the holder
10 of the easement, terminate, release, extinguish, or abandon the
11 conservation easement. If condemnation by a public authority of a part of
12 a property or of the entire property encumbered by a conservation
13 easement in gross renders it impossible to fulfill any of the conservation
14 purposes outlined in the deed of conservation easement, the conservation
15 easement may be terminated, released, SUBORDINATED, extinguished, or
16 abandoned IN WHOLE OR IN PART through condemnation proceedings. A
17 conservation easement in gross for which a Colorado state income tax
18 credit has been allowed may not in whole or in part be released,
19 terminated, extinguished, or abandoned by merger with the underlying fee
20 interest in the servient land or water rights. Any release, termination, or
21 extinguishment of a conservation easement under this section must be
22 recorded in the records of the office of the clerk and recorder in the
23 county where the conservation easement is located.

24 **SECTION 2.** In Colorado Revised Statutes, **add** 38-30.5-107.5
25 as follows:

1 **38-30.5-107.5. Condemnation of property encumbered by a**
2 **conservation easement in gross - determination of just compensation.**

3 IF PROPERTY ENCUMBERED BY A CONSERVATION EASEMENT IN GROSS
4 CREATED IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION
5 38-30.5-104 IS CONDEMNED IN ACCORDANCE WITH THE REQUIREMENTS OF
6 ARTICLES 1 TO 7 OF THIS TITLE 38, AND, AS A RESULT OF THE
7 CONDEMNATION, IT BECOMES IMPOSSIBLE TO FULFILL THE CONSERVATION
8 PURPOSES AS DEFINED IN THE DEED OF CONSERVATION EASEMENT, IN
9 WHOLE OR IN PART AND ACQUIRE SUCH PROPERTY FREE AND CLEAR OF THE
10 CONSERVATION EASEMENT INTEREST, JUST COMPENSATION MUST BE
11 DETERMINED BASED ON THE VALUE OF THE PROPERTY AS IF
12 UNENCUMBERED BY THE CONSERVATION EASEMENT IN GROSS AND MUST
13 BE ALLOCATED BETWEEN THE FEE OWNER AND THE HOLDER OF THE
14 CONSERVATION EASEMENT BASED UPON THE VALUE OF THEIR RESPECTIVE
15 INTERESTS IN THE PROPERTY. THIS SECTION DOES NOT AFFECT OR LIMIT
16 DAMAGES TO WHICH A HOLDER OF A CONSERVATION EASEMENT IN GROSS
17 IS ENTITLED UNDER SECTION 38-30.5-108 (3).

18 **SECTION 3. Safety clause.** The general assembly hereby finds,
19 determines, and declares that this act is necessary for the immediate
20 preservation of the public peace, health, or safety.