

CHAPTER 315

TAXATION

HOUSE BILL 05-1244

BY REPRESENTATIVE(S) Hoppe, Berens, Coleman, Curry, Frangas, Hall, Hodge, Kerr, McFadyen, Plant, Madden, McGihon, Merrifield, and Sullivan;
also SENATOR(S) Veiga, and Keller.

AN ACT**CONCERNING THE ADMINISTRATION OF THE CREDIT AGAINST THE STATE INCOME TAX FOR DONATIONS OF PERPETUAL CONSERVATION EASEMENTS.**

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

SECTION 1. 39-22-522, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

39-22-522. Credit against tax - conservation easements. (3.5) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL HAVE THE AUTHORITY, PURSUANT TO SUBSECTION (8) OF THIS SECTION, TO REQUIRE ADDITIONAL INFORMATION FROM THE TAXPAYER OR TRANSFEREE REGARDING THE APPRAISAL VALUE OF THE EASEMENT, THE AMOUNT OF THE CREDIT, AND THE VALIDITY OF THE CREDIT. IN RESOLVING DISPUTES REGARDING THE VALIDITY OR THE AMOUNT OF A CREDIT ALLOWED PURSUANT TO SUBSECTION (2) OF THIS SECTION, INCLUDING THE VALUE OF THE CONSERVATION EASEMENT FOR WHICH THE CREDIT IS GRANTED, THE EXECUTIVE DIRECTOR SHALL HAVE THE AUTHORITY, FOR GOOD CAUSE SHOWN, TO REVIEW AND ACCEPT OR REJECT, IN WHOLE OR IN PART, THE APPRAISAL VALUE OF THE EASEMENT, THE AMOUNT OF THE CREDIT, AND THE VALIDITY OF THE CREDIT BASED UPON THE INTERNAL REVENUE CODE AND FEDERAL REGULATIONS IN EFFECT AT THE TIME OF THE DONATION. IN THE EVENT THE EXECUTIVE DIRECTOR REJECTS, IN WHOLE OR IN PART, THE APPRAISAL VALUE OF THE EASEMENT, THE AMOUNT OF THE CREDIT, OR THE VALIDITY OF THE CREDIT, THE PROCEDURES DESCRIBED IN SECTIONS 39-21-103, 39-21-104, 39-21-104.5, AND 39-21-105 SHALL APPLY. IN THE EVENT THE EXECUTIVE DIRECTOR REJECTS, IN WHOLE OR IN PART, THE APPRAISAL VALUE OF THE EASEMENT, THE AMOUNT OF THE CREDIT, OR THE VALIDITY OF THE CREDIT, THE PROCEDURES DESCRIBED IN SECTIONS 39-21-103, 39-21-104, 39-21-104.5, AND 39-21-105 SHALL APPLY.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

SECTION 2. 39-22-522 (7), Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS to read:

39-22-522. Credit against tax - conservation easements. (7) For income tax years commencing on or after January 1, 2000, a taxpayer may transfer all or a portion of a tax credit granted pursuant to subsection (2) of this section to another taxpayer for such other taxpayer, as transferee, to apply as a credit against the taxes imposed by this article subject to the following limitations:

(g) A TRANSFEREE OF A TAX CREDIT SHALL PURCHASE THE CREDIT PRIOR TO THE DUE DATE IMPOSED BY THIS ARTICLE, NOT INCLUDING ANY EXTENSIONS, FOR FILING THE TRANSFEREE'S INCOME TAX RETURN.

(h) A TAX CREDIT HELD BY AN INDIVIDUAL EITHER DIRECTLY OR AS A RESULT OF A DONATION BY A PASS-THROUGH ENTITY, BUT NOT A TAX CREDIT HELD BY A TRANSFEREE UNLESS USED BY THE TRANSFEREE'S ESTATE FOR TAXES OWED BY THE ESTATE, SHALL SURVIVE THE DEATH OF THE INDIVIDUAL AND MAY BE CLAIMED OR TRANSFERRED BY THE DECEDENT'S ESTATE. THIS PARAGRAPH (h) SHALL APPLY TO ANY TAX CREDIT FROM A DONATION OF A CONSERVATION EASEMENT MADE ON OR AFTER JANUARY 1, 2000.

(i) THE DONOR OF AN EASEMENT FOR WHICH A TAX CREDIT IS CLAIMED OR THE TRANSFEROR OF A TAX CREDIT TRANSFERRED PURSUANT TO THIS SUBSECTION (7) SHALL BE THE TAX MATTERS REPRESENTATIVE IN ALL MATTERS WITH RESPECT TO THE CREDIT. THE TAX MATTERS REPRESENTATIVE SHALL BE RESPONSIBLE FOR REPRESENTING AND BINDING THE TRANSFEREES WITH RESPECT TO ALL ISSUES AFFECTING THE CREDIT, INCLUDING, BUT NOT LIMITED TO, THE CHARITABLE CONTRIBUTION DEDUCTION, THE APPRAISAL, NOTIFICATIONS AND CORRESPONDENCE FROM AND WITH THE DEPARTMENT OF REVENUE, AUDIT EXAMINATIONS, ASSESSMENTS OR REFUNDS, SETTLEMENT AGREEMENTS, AND THE STATUTE OF LIMITATIONS.

(j) FINAL RESOLUTION OF DISPUTES REGARDING THE TAX CREDIT BETWEEN THE DEPARTMENT OF REVENUE AND THE TAX MATTERS REPRESENTATIVE, INCLUDING FINAL DETERMINATIONS, COMPROMISES, PAYMENT OF ADDITIONAL TAXES OR REFUNDS DUE, AND ADMINISTRATIVE AND JUDICIAL DECISIONS, SHALL BE BINDING ON TRANSFEREES.

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

Approved: June 7, 2005