

CHAPTER 182

TAXATION

HOUSE BILL 06-1354

BY REPRESENTATIVE(S) Madden, Berens, Massey, McCluskey, Merrifield, Plant, Stafford, Stengel, Witwer, and Harvey;
also SENATOR(S) Teck, Entz, and Kester.

AN ACT

**CONCERNING THE AMOUNT OF THE FAIR MARKET VALUE OF A CONSERVATION EASEMENT IN GROSS
DONATED TO A NONPROFIT ENTITY THAT MAY BE CLAIMED AS A CREDIT AGAINST THE STATE
INCOME TAX.**

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

SECTION 1. 39-22-522 (4), Colorado Revised Statutes, is amended to read:

39-22-522. Credit against tax - conservation easements. (4) (a) (I) For a conservation easement in gross created in accordance with article 30.5 of title 38, C.R.S., that is donated PRIOR TO JANUARY 1, 2007, to a governmental entity or a charitable organization described in section 38-30.5-104 (2), C.R.S., the credit provided for in subsection (2) of this section shall be an amount equal to one hundred percent of the first one hundred thousand dollars of the fair market value of the donated portion of such conservation easement in gross when created, and forty percent of all amounts of the donation in excess of one hundred thousand dollars; except that in no case shall the credit exceed two hundred sixty thousand dollars per donation.

(II) FOR A CONSERVATION EASEMENT IN GROSS CREATED IN ACCORDANCE WITH ARTICLE 30.5 OF TITLE 38, C.R.S., THAT IS DONATED ON OR AFTER JANUARY 1, 2007, TO A GOVERNMENTAL ENTITY OR A CHARITABLE ORGANIZATION DESCRIBED IN SECTION 38-30.5-104 (2), C.R.S., THE CREDIT PROVIDED FOR IN SUBSECTION (2) OF THIS SECTION SHALL BE AN AMOUNT EQUAL TO FIFTY PERCENT OF THE FAIR MARKET VALUE OF THE DONATED PORTION OF SUCH CONSERVATION EASEMENT IN GROSS WHEN CREATED; EXCEPT THAT IN NO CASE SHALL THE CREDIT EXCEED THREE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS PER DONATION.

(III) In no event shall a credit claimed by a taxpayer filing a joint federal return,

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

or the sum of the credits claimed by taxpayers filing married separate federal returns, exceed the dollar limitations of this paragraph (a).

(b) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2000, in the case of a JOINT TENANCY, TENANCY IN COMMON, partnership, S corporation, or other similar ~~pass-through~~ entity OR OWNERSHIP GROUP that donates a conservation easement as an entity OR GROUP, the amount of the credit allowed pursuant to subsection (2) of this section shall be allocated to the entity's OWNERS, partners, members, or shareholders in proportion to the OWNERS', partners', members', or shareholders' distributive shares of income OR OWNERSHIP PERCENTAGE from such entity OR GROUP. FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2000, BUT PRIOR TO JANUARY 1, 2003, THE TOTAL AGGREGATE AMOUNT OF THE CREDIT ALLOCATED TO SUCH OWNERS, PARTNERS, MEMBERS, AND SHAREHOLDERS SHALL NOT EXCEED ONE HUNDRED THOUSAND DOLLARS, AND, IF ANY REFUND IS CLAIMED PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (b) OF SUBSECTION (5) OF THIS SECTION, THE AGGREGATE AMOUNT OF THE REFUND AND THE CREDIT CLAIMED BY SUCH PARTNERS, MEMBERS, AND SHAREHOLDERS SHALL NOT EXCEED TWENTY THOUSAND DOLLARS FOR THAT INCOME TAX YEAR. FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2003, BUT PRIOR TO JANUARY 1, 2007, the total aggregate amount of the credit allocated to such OWNERS, partners, members, and shareholders shall not exceed two hundred sixty thousand dollars, and, if any refund is claimed pursuant to subparagraph (I) of paragraph (b) of subsection (5) of this section, the aggregate amount of the refund and the credit claimed by such OWNERS, partners, members, and shareholders shall not exceed fifty thousand dollars for that income tax year. FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2007, THE TOTAL AGGREGATE AMOUNT OF THE CREDIT ALLOCATED TO SUCH OWNERS, PARTNERS, MEMBERS, AND SHAREHOLDERS SHALL NOT EXCEED THREE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS, AND, IF ANY REFUND IS CLAIMED PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (b) OF SUBSECTION (5) OF THIS SECTION, THE AGGREGATE AMOUNT OF THE REFUND AND THE CREDIT CLAIMED BY SUCH OWNERS, PARTNERS, MEMBERS, AND SHAREHOLDERS SHALL NOT EXCEED FIFTY THOUSAND DOLLARS FOR THAT INCOME TAX YEAR.

SECTION 2. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution (August 9, 2006, if adjournment sine die is on May 10, 2006); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: May 1, 2006