

HB1291_L.009

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on State, Veterans, & Military Affairs.

HB18-1291 be amended as follows:

1 Amend reengrossed bill, strike everything below the enacting clause and
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, **add with amended**
4 **and relocated provisions** article 82 to title 35 as follows:

5 **ARTICLE 82**

6 **Conservation Easements**

7 **35-82-101. Legislative declaration.** (1) THE GENERAL ASSEMBLY
8 FINDS, DETERMINES, AND DECLARES THAT:

9 (a) COLORADO'S CONSERVATION EASEMENT PROGRAM IS AN
10 IMPORTANT PRESERVATION TOOL USED TO BALANCE ECONOMIC NEEDS
11 WITH NATURAL RESOURCES SUCH AS LAND AND WATER PRESERVATION.
12 COLORADO'S CONSERVATION EASEMENT TAX CREDIT AND THE FEDERAL
13 TAX DEDUCTION HAVE ALLOWED MANY FARMERS AND RANCHERS THE
14 OPPORTUNITY TO DONATE THEIR DEVELOPMENT RIGHTS TO PRESERVE A
15 LEGACY OF OPEN SPACES IN COLORADO FOR WILDLIFE, AGRICULTURE, AND
16 RANCHING.

17 (b) CITIZENS THROUGHOUT COLORADO BELIEVE GOOD, SOUND
18 CONSERVATION PRACTICES ARE IMPORTANT TO COLORADO'S QUALITY OF
19 LIFE, AGRICULTURE, AND NATURAL HERITAGE;

20 (c) COLORADO'S CONSERVATION EASEMENT TAX CREDIT PROGRAM
21 WAS DESIGNED TO GIVE LANDOWNERS AN INCENTIVE TO CONSERVE AND
22 PRESERVE THEIR LAND IN A PREDOMINANTLY NATURAL, SCENIC, OR OPEN
23 CONDITION;

24 (d) AUTHORIZING THE DEPARTMENT OF AGRICULTURE TO OVERSEE
25 THE CERTIFICATION OF CONSERVATION EASEMENT HOLDERS AND THE
26 CERTIFICATION OF CONSERVATION EASEMENT TAX CREDITS WILL KEEP A
27 FIREWALL BETWEEN PROFESSIONAL EVALUATION AND PROFESSIONAL
28 DISCIPLINE, WHILE ENSURING THAT THIS PROGRAM ALLOWS LANDOWNERS
29 TO EXERCISE THEIR PRIVATE PROPERTY RIGHTS AND PROTECTING
30 TAXPAYERS FROM THE FRAUD AND ABUSE THAT EXISTED IN THE PROGRAM
31 PRIOR TO 2009;

32 (e) IN RECOGNITION OF THE FRAUD AND ABUSE THAT HAS EXISTED
33 IN THE PROGRAM, IT IS APPROPRIATE TO ALLOW AN EASEMENT TO BE
34 EXTINGUISHED IF THE VALUE OF THE EASEMENT IS REDUCED OR
35 ELIMINATED BY THE STATE IN CONNECTION WITH CLAIMING A TAX CREDIT
36 FOR THE EASEMENT AND THE CREDIT IS DISALLOWED OR ANY AMOUNT
37 ALLOWED IS NOT CLAIMED OR IS REPAYED BY A LANDOWNER;

38 (f) AUTHORIZING THE DEPARTMENT OF AGRICULTURE TO
39 ADMINISTER THE CONSERVATION EASEMENT TAX CREDIT PROGRAM WILL:

40 (I) ALLOW THE DEPARTMENT TO CERTIFY CONSERVATION

1 EASEMENT HOLDERS TO IDENTIFY FRAUDULENT OR UNQUALIFIED
2 ORGANIZATIONS AND PREVENT THEM FROM HOLDING CONSERVATION
3 EASEMENTS FOR WHICH TAX CREDITS ARE CLAIMED IN THE STATE;

4 (II) ALLOW THE CONSERVATION EASEMENT OVERSIGHT
5 COMMISSION TO ADVISE THE DEPARTMENT OF AGRICULTURE AND THE
6 DEPARTMENT OF REVENUE REGARDING CONSERVATION EASEMENTS FOR
7 WHICH A TAX CREDIT IS CLAIMED AND TO REVIEW APPLICATIONS FOR
8 CONSERVATION EASEMENT HOLDER CERTIFICATION; AND

9 (III) ENSURE THAT THE DEPARTMENT OF AGRICULTURE AND THE
10 DEPARTMENT OF REVENUE ARE SHARING RELEVANT INFORMATION
11 CONCERNING CONSERVATION EASEMENT APPRAISALS IN ORDER TO ENSURE
12 COMPLIANCE WITH ACCEPTED APPRAISAL PRACTICES AND OTHER
13 PROVISIONS OF LAW.

14 **35-82-102. Definitions.** AS USED IN THIS ARTICLE 82, UNLESS THE
15 CONTEXT OTHERWISE REQUIRES:

16 (1) "COMMISSION" MEANS THE CONSERVATION EASEMENT
17 OVERSIGHT COMMISSION CREATED IN SECTION 35-82-104.

18 (2) "COMMISSIONER" MEANS THE COMMISSIONER OF
19 AGRICULTURE.

20 (3) "DEPARTMENT" MEANS THE DEPARTMENT OF AGRICULTURE.

21 **35-82-103. Duties of commissioner.** (1) THE COMMISSIONER IS
22 AUTHORIZED BY THIS SECTION TO EMPLOY SUCH DEPUTIES, CLERKS, AND
23 ASSISTANTS AS ARE NECESSARY TO DISCHARGE THE DUTIES IMPOSED BY
24 THIS ARTICLE 82 AND TO DELEGATE ANY DUTY IMPOSED UPON THE
25 COMMISSIONER BY THIS ARTICLE 82 TO AN EMPLOYEE OF THE DEPARTMENT
26 AS THE COMMISSIONER DEEMS APPROPRIATE.

27 (2) IT IS THE DUTY OF THE DEPARTMENT AND THE COMMISSIONER
28 OF AGRICULTURE, PERSONALLY OR HIS OR HER DESIGNEE, TO AID IN THE
29 ADMINISTRATION AND ENFORCEMENT OF THIS ARTICLE 82 AND TO
30 ADMINISTER, IN CONSULTATION WITH THE COMMISSION, THE
31 CERTIFICATION OF CONSERVATION EASEMENT HOLDERS AND ISSUANCE OF
32 TAX CREDIT CERTIFICATES AS PROVIDED IN THIS ARTICLE 82.

33 **35-82-104. Conservation easement oversight commission -**
34 **created - repeal. [Similar to 12-61-725]** (1) THERE IS HEREBY CREATED
35 IN THE DEPARTMENT A CONSERVATION EASEMENT OVERSIGHT
36 COMMISSION. THE COMMISSION SHALL EXERCISE ITS POWERS AND
37 PERFORM ITS DUTIES AND FUNCTIONS UNDER THE DEPARTMENT AS IF
38 TRANSFERRED THERETO BY A TYPE 2 TRANSFER, AS DEFINED IN THE
39 "ADMINISTRATIVE ORGANIZATION ACT OF 1968", ARTICLE 1 OF TITLE 24.
40 THE COMMISSION CONSISTS OF EIGHT MEMBERS AS FOLLOWS:

41 (a) ONE MEMBER REPRESENTING THE GREAT OUTDOORS
42 COLORADO PROGRAM, APPOINTED BY AND SERVING AS AN ADVISORY,
43 NONVOTING MEMBER AT THE PLEASURE OF THE STATE BOARD OF THE

1 GREAT OUTDOORS COLORADO TRUST FUND ESTABLISHED IN ARTICLE
2 XXVII OF THE STATE CONSTITUTION;
3 (b) ONE VOTING MEMBER REPRESENTING THE DEPARTMENT OF
4 NATURAL RESOURCES, APPOINTED BY AND SERVING AT THE PLEASURE OF
5 THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES;
6 (c) ONE VOTING MEMBER REPRESENTING THE DEPARTMENT OF
7 AGRICULTURE, APPOINTED BY AND SERVING AT THE PLEASURE OF THE
8 COMMISSIONER;
9 (d) THREE VOTING MEMBERS APPOINTED BY THE GOVERNOR AS
10 FOLLOWS:
11 (I) TWO VOTING MEMBERS WHO ARE REPRESENTATIVES OF
12 CERTIFIED CONSERVATION EASEMENT HOLDERS; AND
13 (II) ONE VOTING MEMBER WHO IS COMPETENT AND QUALIFIED TO
14 ANALYZE THE CONSERVATION PURPOSE OF CONSERVATION EASEMENTS;
15 AND
16 (e) TWO VOTING MEMBERS OF THE GENERAL PUBLIC, ONE
17 APPOINTED BY THE PRESIDENT OF THE SENATE TO SERVE AT THE PLEASURE
18 OF THE PRESIDENT AND ONE APPOINTED BY THE SPEAKER OF THE HOUSE OF
19 REPRESENTATIVES TO SERVE AT THE PLEASURE OF THE SPEAKER.
20 (2) IN MAKING APPOINTMENTS TO THE COMMISSION, THE
21 GOVERNOR SHALL CONSULT WITH THE THREE MEMBERS OF THE
22 COMMISSION APPOINTED PURSUANT TO SUBSECTIONS (1)(a) TO (1)(c) OF
23 THIS SECTION AND WITH APPROPRIATE ORGANIZATIONS REPRESENTING THE
24 PARTICULAR INTEREST OR AREA OF EXPERTISE THAT THE APPOINTEES IN
25 SUBSECTIONS (1)(d)(I) AND (1)(d)(II) OF THIS SECTION REPRESENT. NOT
26 MORE THAN TWO OF THE GOVERNOR'S APPOINTEES SERVING AT THE SAME
27 TIME SHALL BE FROM THE SAME POLITICAL PARTY. IN MAKING THE INITIAL
28 APPOINTMENTS, THE GOVERNOR SHALL APPOINT ONE MEMBER FOR A TERM
29 OF TWO YEARS. ALL OTHER APPOINTMENTS BY THE GOVERNOR ARE FOR
30 TERMS OF THREE YEARS. NO MEMBER SHALL SERVE MORE THAN TWO
31 CONSECUTIVE TERMS. IN THE EVENT OF A VACANCY BY DEATH,
32 RESIGNATION, REMOVAL, OR OTHERWISE, THE GOVERNOR SHALL APPOINT
33 A MEMBER TO FILL THE UNEXPIRED TERM. THE GOVERNOR MAY REMOVE
34 ANY MEMBER FOR MISCONDUCT, NEGLIGENCE OF DUTY, OR INCOMPETENCE.
35 (3) (a) AT THE REQUEST OF THE DEPARTMENT OR THE
36 DEPARTMENT OF REVENUE, THE COMMISSION SHALL ADVISE THE
37 DEPARTMENT AND THE DEPARTMENT OF REVENUE REGARDING
38 CONSERVATION EASEMENTS FOR WHICH A STATE INCOME TAX CREDIT IS
39 CLAIMED PURSUANT TO SECTION 39-22-522.
40 (b) THE COMMISSION SHALL REVIEW CONSERVATION EASEMENT
41 TAX CREDIT CERTIFICATE APPLICATIONS AND REQUESTS FOR OPTIONAL
42 PRELIMINARY ADVISORY OPINIONS IN ACCORDANCE WITH SECTION
43 35-82-107.

1 (4) THE COMMISSION SHALL MEET AT LEAST QUARTERLY. THE
2 DEPARTMENT SHALL CONVENE THE MEETINGS OF THE COMMISSION AND
3 PROVIDE STAFF SUPPORT AS REQUESTED BY THE COMMISSION. A MAJORITY
4 OF THE VOTING MEMBERS OF THE COMMISSION CONSTITUTES A QUORUM
5 FOR THE TRANSACTION OF ALL BUSINESS, AND ACTIONS OF THE
6 COMMISSION REQUIRE A VOTE OF A MAJORITY OF THE VOTING MEMBERS
7 PRESENT IN FAVOR OF THE ACTION TAKEN. THE COMMISSION MAY
8 DELEGATE TO THE COMMISSIONER THE AUTHORITY TO ACT ON BEHALF OF
9 THE COMMISSION ON OCCASIONS AND IN CIRCUMSTANCES THAT THE
10 COMMISSION DEEMS NECESSARY FOR THE EFFICIENT AND EFFECTIVE
11 ADMINISTRATION AND EXECUTION OF THE COMMISSION'S RESPONSIBILITIES
12 UNDER THIS ARTICLE 82.

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

19 (6) THE COMMISSION SHALL ADVISE AND MAKE
20 RECOMMENDATIONS TO THE COMMISSIONER REGARDING THE
21 CERTIFICATION OF CONSERVATION EASEMENT HOLDERS IN ACCORDANCE
22 WITH SECTION 35-82-105.

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

26 (8) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2025.
27 PRIOR TO THE REPEAL, THE DEPARTMENT OF REGULATORY AGENCIES
28 SHALL REVIEW THE COMMISSION AS PROVIDED IN SECTION 24-34-104.

29 **35-82-105. Certification of conservation easement holders -**
30 **rules - definition - repeal. [Similar to 12-61-724.]** (1) THE
31 DEPARTMENT SHALL, IN CONSULTATION WITH THE COMMISSION CREATED
32 IN SECTION 35-82-104, ESTABLISH AND ADMINISTER A CERTIFICATION
33 PROGRAM FOR QUALIFIED ORGANIZATIONS UNDER SECTION 170 (h) OF THE
34 FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, THAT HOLD
35 CONSERVATION EASEMENTS FOR WHICH A TAX CREDIT IS CLAIMED
36 PURSUANT TO SECTION 39-22-522. THE PURPOSES OF THE PROGRAM ARE
37 TO:

38 (a) ESTABLISH MINIMUM QUALIFICATIONS FOR CERTIFYING
39 ORGANIZATIONS THAT HOLD CONSERVATION EASEMENTS TO ENCOURAGE
40 PROFESSIONALISM AND STABILITY; AND

41 (b) IDENTIFY FRAUDULENT OR UNQUALIFIED APPLICANTS, AS
42 DETERMINED UNDER THE RULES OF THE DEPARTMENT, TO PREVENT THEM
43 FROM BECOMING CERTIFIED BY THE PROGRAM.

1 (2) THE DEPARTMENT SHALL ESTABLISH AND ACCEPT
2 APPLICATIONS FOR CERTIFICATION. THE DEPARTMENT SHALL CONDUCT A
3 REVIEW OF EACH APPLICATION AND CONSIDER THE RECOMMENDATIONS OF
4 THE COMMISSION BEFORE MAKING A FINAL DETERMINATION TO GRANT OR
5 DENY CERTIFICATION. IN REVIEWING AN APPLICATION AND IN GRANTING
6 CERTIFICATION, THE DEPARTMENT AND THE COMMISSION MAY CONSIDER:

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

9 (b) THE APPLICANT'S STEWARDSHIP PRACTICES AND CAPACITY,
10 INCLUDING THE ABILITY TO MAINTAIN, MONITOR, AND DEFEND THE
11 PURPOSES OF THE EASEMENT;

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

13 (d) THE APPLICANT'S SYSTEM OF GOVERNANCE AND ETHICS
14 REGARDING CONFLICTS OF INTEREST AND TRANSACTIONS WITH RELATED
15 PARTIES AS DESCRIBED IN SECTION 267 (b) OF THE FEDERAL "INTERNAL
16 REVENUE CODE OF 1986", AS AMENDED, DONORS, BOARD MEMBERS, AND
17 INSIDERS. FOR PURPOSES OF THIS SUBSECTION (2)(d), "INSIDERS" MEANS
18 BOARD AND STAFF MEMBERS, SUBSTANTIAL CONTRIBUTORS, PARTIES
19 RELATED TO THOSE ABOVE, THOSE WHO HAVE AN ABILITY TO INFLUENCE
20 DECISIONS OF THE ORGANIZATION, AND THOSE WITH ACCESS TO
21 INFORMATION NOT AVAILABLE TO THE GENERAL PUBLIC.

22 (e) ANY OTHER INFORMATION DEEMED RELEVANT BY THE
23 DEPARTMENT OR THE COMMISSION; AND

24 (f) THE UNIQUE CIRCUMSTANCES OF THE DIFFERENT ENTITIES TO
25 WHICH THIS CERTIFICATION APPLIES AS SET FORTH IN SUBSECTION (4) OF
26 THIS SECTION.

27 (3) AT THE TIME OF SUBMISSION OF AN APPLICATION, AND EACH
28 YEAR THE ENTITY IS CERTIFIED PURSUANT TO THIS SECTION, THE
29 APPLICANT SHALL PAY THE DEPARTMENT A FEE, AS PRESCRIBED BY THE
30 DEPARTMENT, TO COVER THE COSTS OF THE DEPARTMENT AND THE
31 COMMISSION IN ADMINISTERING THE CERTIFICATION PROGRAM FOR
32 ENTITIES THAT HOLD CONSERVATION EASEMENTS FOR WHICH TAX CREDITS
33 ARE CLAIMED PURSUANT TO SECTION 39-22-522. THE DEPARTMENT SHALL
34 HAVE THE AUTHORITY TO ACCEPT AND EXPEND GIFTS, GRANTS, AND
35 DONATIONS FOR THE PURPOSES OF THIS SECTION. THE STATE TREASURER
36 SHALL CREDIT FEES, GIFTS, GRANTS, AND DONATIONS COLLECTED
37 PURSUANT TO THIS SUBSECTION (3) TO THE CONSERVATION CASH FUND
38 CREATED IN SECTION 35-82-108. ON OR BEFORE EACH JANUARY 1, THE
39 DEPARTMENT SHALL CERTIFY TO THE GENERAL ASSEMBLY THE AMOUNT
40 OF THE FEE PRESCRIBED BY THE DEPARTMENT PURSUANT TO THIS
41 SUBSECTION (3).

42 (4) THE CERTIFICATION PROGRAM APPLIES TO:

43 (a) NONPROFIT ENTITIES HOLDING EASEMENTS ON PROPERTY WITH

1 CONSERVATION VALUES CONSISTING OF RECREATION OR EDUCATION,
2 PROTECTION OF ENVIRONMENTAL SYSTEMS, OR PRESERVATION OF OPEN
3 SPACE;

4 (b) NONPROFIT ENTITIES HOLDING EASEMENTS ON PROPERTY FOR
5 HISTORIC PRESERVATION; AND

6 (c) THE STATE AND ANY MUNICIPALITY, COUNTY, CITY AND
7 COUNTY, SPECIAL DISTRICT, OR OTHER POLITICAL SUBDIVISION OF THE
8 STATE THAT HOLDS AN EASEMENT.

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

14 (6) THE COMMISSION SHALL MEET AT LEAST QUARTERLY AND
15 MAKE RECOMMENDATIONS TO THE DEPARTMENT REGARDING THE
16 CERTIFICATION PROGRAM. THE DEPARTMENT IS AUTHORIZED TO
17 DETERMINE WHETHER AN APPLICANT FOR CERTIFICATION POSSESSES THE
18 NECESSARY QUALIFICATIONS FOR CERTIFICATION REQUIRED BY THE RULES
19 ADOPTED BY THE DEPARTMENT. IF THE DEPARTMENT DETERMINES THAT
20 AN APPLICANT DOES NOT POSSESS THE APPLICABLE QUALIFICATIONS FOR
21 CERTIFICATION OR THAT THE APPLICANT HAS VIOLATED ANY PROVISION OF
22 THIS ARTICLE 82, THE RULES PROMULGATED BY THE DEPARTMENT, OR ANY
23 DEPARTMENT ORDER, THE DEPARTMENT MAY DENY THE APPLICANT A
24 CERTIFICATION OR DENY THE RENEWAL OF A CERTIFICATION, AND, IN SUCH
25 INSTANCE, THE DEPARTMENT SHALL PROVIDE THE APPLICANT WITH A
26 STATEMENT IN WRITING SETTING FORTH THE BASIS OF THE DEPARTMENT'S
27 DETERMINATION. THE APPLICANT MAY REQUEST A HEARING ON THE
28 DETERMINATION AS PROVIDED IN SECTION 24-4-104 (9). THE DEPARTMENT
29 SHALL NOTIFY SUCCESSFUL APPLICANTS IN WRITING. AN APPLICANT THAT
30 IS NOT CERTIFIED MAY REAPPLY FOR CERTIFICATION IN ACCORDANCE WITH
31 PROCEDURES ESTABLISHED BY THE DEPARTMENT.

32 (7) THE DEPARTMENT SHALL PROMULGATE RULES TO EFFECTUATE
33 THE DUTIES OF THE COMMISSION PURSUANT TO ARTICLE 4 OF TITLE 24.
34 SUCH RULES SHALL SPECIFICALLY ADDRESS THE FOLLOWING:

35 (a) ALLOWING FOR THE EXPEDITED OR AUTOMATIC CERTIFICATION
36 OF AN ENTITY THAT IS CURRENTLY ACCREDITED BY NATIONAL LAND
37 CONSERVATION ORGANIZATIONS THAT ARE BROADLY ACCEPTED BY THE
38 CONSERVATION INDUSTRY;

39 (b) A STREAMLINED AND LOWER-COST PROCESS FOR
40 CONSERVATION EASEMENT HOLDERS THAT DO NOT INTEND TO ACCEPT
41 NEW DONATIONS OF CONSERVATION EASEMENTS FOR WHICH TAX CREDITS
42 WOULD BE CLAIMED THAT FOCUSES ON THE HOLDER'S STEWARDSHIP
43 CAPABILITIES;

1 (c) THE FEES CHARGED PURSUANT TO SUBSECTION (3) OF THIS
2 SECTION OR SECTION 35-82-107 (6), SPECIFICALLY ENSURING THAT THE
3 FEES ARE ADEQUATE TO PAY FOR ADMINISTRATIVE COSTS BUT NOT SO
4 HIGH AS TO ACT AS A DISINCENTIVE TO THE CREATION OF CONSERVATION
5 EASEMENTS IN THE STATE; AND

6 (d) THE ADOPTION OF BEST PRACTICES, PROCESSES, AND
7 PROCEDURES USED BY OTHER ENTITIES THAT REGULARLY REVIEW
8 CONSERVATION EASEMENT TRANSACTIONS, INCLUDING A PRACTICE,
9 PROCESS, OR PROCEDURE DEEMING QUALIFIED CONSERVATION EASEMENT
10 APPRAISALS APPROVED BY THESE ENTITIES BASED ON THEIR INDEPENDENT
11 REVIEWS AS CREDIBLE FOR PURPOSES OF THE CONSERVATION EASEMENT
12 TAX CREDIT.

13 (8) A CONSERVATION EASEMENT TAX CREDIT CERTIFICATE
14 APPLICATION MAY BE SUBMITTED PURSUANT TO SECTION 35-82-107 ONLY
15 IF THE ENTITY HAS BEEN CERTIFIED IN ACCORDANCE WITH THIS SECTION AT
16 THE TIME THE DONATION OF THE EASEMENT IS MADE. THE DEPARTMENT
17 SHALL MAKE INFORMATION AVAILABLE TO THE PUBLIC CONCERNING THE
18 DATE THAT IT COMMENCES ACCEPTING APPLICATIONS FOR ENTITIES THAT
19 HOLD CONSERVATION EASEMENTS AND THE REQUIREMENTS OF THIS
20 SUBSECTION (8).

21 (9) THE DEPARTMENT SHALL MAINTAIN AND UPDATE AN ONLINE
22 LIST, ACCESSIBLE TO THE PUBLIC, OF THE ORGANIZATIONS THAT HAVE
23 APPLIED FOR CERTIFICATION AND WHETHER EACH HAS BEEN CERTIFIED,
24 REJECTED FOR CERTIFICATION, OR HAD ITS CERTIFICATION REVOKED OR
25 SUSPENDED IN ACCORDANCE WITH THIS SECTION.

26 (10) THE DEPARTMENT MAY INVESTIGATE THE ACTIVITIES OF ANY
27 ENTITY THAT IS REQUIRED TO BE CERTIFIED PURSUANT TO THIS SECTION
28 AND TO IMPOSE DISCIPLINE FOR NONCOMPLIANCE, INCLUDING THE
29 SUSPENSION OR REVOCATION OF A CERTIFICATION OR THE IMPOSITION OF
30 FINES. THE DEPARTMENT MAY PROMULGATE RULES IN ACCORDANCE WITH
31 ARTICLE 4 OF TITLE 24 FOR THE CERTIFICATION PROGRAM AND DISCIPLINE
32 AUTHORIZED BY THIS SECTION.

33 (11) THE DEPARTMENT MAY SUBPOENA PERSONS AND DOCUMENTS,
34 WHICH SUBPOENAS MAY BE ENFORCED BY A COURT OF COMPETENT
35 JURISDICTION IF NOT OBEYED, FOR PURPOSES OF CONDUCTING
36 INVESTIGATIONS PURSUANT TO SUBSECTION (10) OF THIS SECTION.

37 (12) NOTHING IN THIS SECTION:

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

41 (b) REQUIRES THE CERTIFICATION OF AN ENTITY THAT HOLDS A
42 CONSERVATION EASEMENT FOR WHICH A TAX CREDIT IS NOT CLAIMED
43 PURSUANT TO SECTION 39-22-522.

1 (13) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2025.
2 PRIOR TO THE REPEAL, THE DEPARTMENT OF REGULATORY AGENCIES
3 SHALL REVIEW THE CERTIFICATION REQUIREMENT AS PROVIDED FOR IN
4 SECTION 24-34-104.

5 **35-82-106. Conservation easement tax credit certificates -**
6 **rules. [Similar to 12-61-726.]** (1) THE DEPARTMENT SHALL RECEIVE TAX
7 CREDIT CERTIFICATE APPLICATIONS FROM AND ISSUE CERTIFICATES TO
8 LANDOWNERS FOR INCOME TAX CREDITS FOR CONSERVATION EASEMENTS
9 DONATED ON OR AFTER JANUARY 1, 2011, IN ACCORDANCE WITH SECTION
10 39-22-522 (2.5) AND THIS ARTICLE 82. NOTHING IN THIS SECTION
11 RESTRICTS OR LIMITS THE AUTHORITY OF THE DEPARTMENT TO ENFORCE
12 THIS ARTICLE 82. THE DEPARTMENT MAY PROMULGATE RULES IN
13 ACCORDANCE WITH ARTICLE 4 OF TITLE 24 FOR THE ISSUANCE OF THE
14 CERTIFICATES. IN PROMULGATING RULES, THE DEPARTMENT MAY INCLUDE
15 PROVISIONS GOVERNING:

16 (a) THE REVIEW OF THE TAX CREDIT CERTIFICATE APPLICATION
17 PURSUANT TO THIS ARTICLE 82;

18 (b) THE ADMINISTRATION AND FINANCING OF THE CERTIFICATION
19 PROCESS;

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

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

26 (e) ANY OTHER MATTERS RELATED TO ADMINISTERING SECTION
27 39-22-522 (2.5) OR THIS ARTICLE 82.

28 (2) THE DEPARTMENT SHALL APPLY THE AMOUNT CLAIMED IN A
29 COMPLETED TAX CREDIT CERTIFICATE APPLICATION AGAINST THE ANNUAL
30 TAX CREDIT LIMIT IN THE ORDER THAT COMPLETED APPLICATIONS ARE
31 RECEIVED. THE DEPARTMENT SHALL APPLY CLAIMED TAX CREDIT
32 AMOUNTS THAT EXCEED THE ANNUAL LIMIT IN ANY YEAR AGAINST THE
33 LIMIT FOR THE NEXT AVAILABLE YEAR AND ISSUE TAX CREDIT
34 CERTIFICATES FOR USE IN THE YEAR IN WHICH THE AMOUNT WAS APPLIED
35 TO THE ANNUAL LIMIT.

36 (3) THE DEPARTMENT SHALL NOT ISSUE TAX CREDIT CERTIFICATES
37 THAT IN AGGREGATE EXCEED THE LIMIT SET FORTH IN SECTION 39-22-522
38 (2.5) DURING A PARTICULAR CALENDAR YEAR.

39 **35-82-107. Conservation easement tax credit certificate**
40 **application process - report - definitions - rules. [Similar to section**
41 **12-61-727.]** (1) FOR PURPOSES OF THIS SECTION:

42 (a) "APPLICATION" MEANS AN APPLICATION FOR A TAX CREDIT
43 CERTIFICATE SUBMITTED PURSUANT TO SECTION 35-82-106 OR THIS

1 SECTION.

2 (b) "CONSERVATION PURPOSE" MEANS CONSERVATION PURPOSE AS
3 DEFINED IN SECTION 170 (h) OF THE FEDERAL "INTERNAL REVENUE CODE
4 OF 1986", AS AMENDED, AND ANY FEDERAL REGULATIONS PROMULGATED
5 IN CONNECTION WITH SUCH SECTION.

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

9 (d) "DEFICIENCY" MEANS NONCOMPLIANCE WITH A REQUIREMENT
10 FOR OBTAINING A TAX CREDIT CERTIFICATE THAT, UNLESS SUCH
11 NONCOMPLIANCE IS REMEDIED, IS GROUNDS FOR THE DENIAL OF A TAX
12 CREDIT CERTIFICATE APPLICATION SUBMITTED PURSUANT TO THIS
13 SECTION.

14 (e) "LANDOWNER" MEANS THE RECORD OWNER OF THE SURFACE
15 OF THE LAND AND, IF APPLICABLE, OWNER OF THE WATER OR WATER
16 RIGHTS BENEFICIALLY USED THEREON WHO CREATES A CONSERVATION
17 EASEMENT IN GROSS PURSUANT TO SECTION 38-30.5-104.

18 (f) "TAX CREDIT CERTIFICATE" MEANS THE CONSERVATION
19 EASEMENT TAX CREDIT CERTIFICATE ISSUED PURSUANT TO SECTION
20 35-82-106 AND THIS SECTION.

21 (2) (a) THE DEPARTMENT SHALL ESTABLISH AND ADMINISTER A
22 PROCESS BY WHICH A LANDOWNER SEEKING TO CLAIM AN INCOME TAX
23 CREDIT FOR ANY CONSERVATION EASEMENT DONATION MADE ON OR AFTER
24 JANUARY 1, 2014, MUST APPLY FOR A TAX CREDIT CERTIFICATE AS
25 REQUIRED BY SECTION 39-22-522 (2.5) AND (2.7). THE PURPOSE OF THE
26 APPLICATION PROCESS IS TO DETERMINE WHETHER A CONSERVATION
27 EASEMENT DONATION FOR WHICH A TAX CREDIT WILL BE CLAIMED:

28 (I) IS A CONTRIBUTION OF A QUALIFIED REAL PROPERTY INTEREST
29 TO A QUALIFIED ORGANIZATION TO BE USED EXCLUSIVELY FOR A
30 CONSERVATION PURPOSE;

31 (II) IS SUBSTANTIATED WITH A QUALIFIED APPRAISAL PREPARED BY
32 A QUALIFIED APPRAISER IN ACCORDANCE WITH THE UNIFORM STANDARDS
33 OF PROFESSIONAL APPRAISAL PRACTICE; AND

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

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

37 (3) FOR THE PURPOSE OF REVIEWING APPLICATIONS AND MAKING
38 DETERMINATIONS REGARDING THE ISSUANCE OF TAX CREDIT
39 CERTIFICATES, INCLUDING THE DOLLAR AMOUNT OF THE TAX CREDIT
40 CERTIFICATE TO BE ISSUED:

41 (a) DEPARTMENT STAFF SHALL REVIEW EACH APPLICATION AND
42 ADVISE AND MAKE RECOMMENDATIONS TO THE COMMISSIONER AND THE
43 COMMISSION REGARDING THE APPLICATION;

1 (b) THE COMMISSIONER HAS AUTHORITY AND RESPONSIBILITY TO
2 DETERMINE THE CREDIBILITY OF THE APPRAISAL. IN DETERMINING
3 CREDIBILITY, THE COMMISSIONER SHALL CONSIDER, AT A MINIMUM,
4 COMPLIANCE WITH THE FOLLOWING REQUIREMENTS:

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

11 (II) THE APPRAISAL CONFORMS WITH THE UNIFORM STANDARDS OF
12 PROFESSIONAL APPRAISAL PRACTICE PROMULGATED BY THE APPRAISAL
13 STANDARDS BOARD OF THE APPRAISAL FOUNDATION AND ANY OTHER
14 PROVISION OF LAW;

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

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

20 (c) THE COMMISSIONER HAS THE AUTHORITY AND RESPONSIBILITY
21 TO DETERMINE COMPLIANCE WITH THE REQUIREMENTS OF SECTION
22 35-82-105.

23 (d) THE COMMISSION HAS THE AUTHORITY AND RESPONSIBILITY TO
24 DETERMINE WHETHER A CONSERVATION EASEMENT DONATION FOR WHICH
25 A TAX CREDIT IS CLAIMED PURSUANT TO SECTION 39-22-522 IS A
26 QUALIFIED CONSERVATION CONTRIBUTION AS DEFINED IN SECTION 170 (h)
27 OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, AND
28 ANY FEDERAL REGULATIONS PROMULGATED IN CONNECTION WITH SUCH
29 SECTION.

30 (4) THE DEPARTMENT OF REVENUE IS NOT AUTHORIZED TO
31 DISALLOW A CONSERVATION EASEMENT TAX CREDIT BASED ON ANY
32 REQUIREMENTS THAT ARE UNDER THE JURISDICTION OF THE DEPARTMENT,
33 THE COMMISSIONER, OR THE COMMISSION PURSUANT TO THIS SECTION.

34 (5) A COMPLETE TAX CREDIT CERTIFICATE APPLICATION MUST BE
35 MADE BY THE LANDOWNER TO THE DEPARTMENT AND MUST INCLUDE:

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

37 (b) A COPY OF THE RECORDED DEED GRANTING THE
38 CONSERVATION EASEMENT;

39 (c) DOCUMENTATION SUPPORTING THE CONSERVATION PURPOSE
40 OF THE EASEMENT;

41 (d) ANY OTHER INFORMATION OR DOCUMENTATION THE
42 COMMISSIONER OR THE COMMISSION DEEMS NECESSARY TO MAKE A FINAL
43 DETERMINATION REGARDING THE APPLICATION; AND

1 (e) THE FEE REQUIRED PURSUANT TO SUBSECTION (6) OF THIS
2 SECTION.

3 (6) A LANDOWNER SUBMITTING AN APPLICATION FOR A TAX
4 CREDIT CERTIFICATE PURSUANT TO THIS SECTION OR AN APPLICATION FOR
5 AN OPTIONAL PRELIMINARY ADVISORY OPINION PURSUANT TO SUBSECTION
6 (14) OF THIS SECTION SHALL PAY THE DEPARTMENT A FEE AS PRESCRIBED
7 BY THE DEPARTMENT. THE APPLICATION FEE FOR AN OPTIONAL
8 PRELIMINARY ADVISORY OPINION MAY BE A DIFFERENT DOLLAR AMOUNT
9 THAN THE APPLICATION FEE FOR A TAX CREDIT CERTIFICATE. THE FEES
10 MUST BE ADEQUATE TO PAY FOR THE ADMINISTRATIVE COSTS OF THE
11 DEPARTMENT AND THE COMMISSION IN ADMINISTERING THE
12 REQUIREMENTS OF THIS SECTION, BUT NOT SO HIGH AS TO ACT AS A
13 DISINCENTIVE TO THE CREATION OF CONSERVATION EASEMENTS IN THE
14 STATE. THE STATE TREASURER SHALL CREDIT THE FEES COLLECTED
15 PURSUANT TO THIS SUBSECTION (6) TO THE CONSERVATION CASH FUND
16 CREATED IN SECTION 35-82-108. ON OR BEFORE EACH JANUARY 1, THE
17 DEPARTMENT SHALL CERTIFY TO THE GENERAL ASSEMBLY THE AMOUNT
18 OF ANY FEES PRESCRIBED BY THE DEPARTMENT PURSUANT TO THIS
19 SUBSECTION (6).

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

30 (b) THE LANDOWNER HAS SIXTY DAYS AFTER THE MAILING DATE
31 OF THE DEPARTMENT'S LETTER TO ADDRESS THE POTENTIAL DEFICIENCIES
32 IDENTIFIED BY THE COMMISSIONER AND THE COMMISSION AND PROVIDE
33 ADDITIONAL INFORMATION OR DOCUMENTATION THAT THE COMMISSIONER
34 OR THE COMMISSION DEEMS NECESSARY TO MAKE A FINAL
35 DETERMINATION REGARDING THE APPLICATION.

36 (c) THE COMMISSIONER AND THE COMMISSION HAVE NINETY DAYS
37 AFTER THE DATE OF RECEIPT OF ANY ADDITIONAL INFORMATION OR
38 DOCUMENTATION PROVIDED BY THE LANDOWNER TO REVIEW THE
39 INFORMATION AND DOCUMENTATION AND MAKE A FINAL DETERMINATION
40 REGARDING THE APPLICATION.

41 (d) THE DEADLINES PRESCRIBED BY THIS SUBSECTION (7) MAY BE
42 EXTENDED UPON MUTUAL AGREEMENT BETWEEN THE COMMISSIONER AND
43 THE COMMISSION AND THE LANDOWNER.

1 (8) THE COMMISSIONER OR THE COMMISSION MAY DENY AN
2 APPLICATION IF THE LANDOWNER:

3 (a) HAS NOT DEMONSTRATED TO THE SATISFACTION OF THE
4 COMMISSIONER OR THE COMMISSION THAT THE APPLICATION COMPLIES
5 WITH ANY REQUIREMENT OF THIS ARTICLE 82;

6 (b) DOES NOT PROVIDE THE INFORMATION AND DOCUMENTATION
7 REQUIRED PURSUANT TO THIS ARTICLE 82; OR

8 (c) FAILS TO TIMELY RESPOND TO ANY WRITTEN REQUEST OR
9 NOTICE FROM THE DEPARTMENT, THE COMMISSIONER, OR THE
10 COMMISSION.

11 (9) IF THE COMMISSIONER REASONABLY BELIEVES THAT ANY
12 APPRAISAL SUBMITTED IN ACCORDANCE WITH THIS SECTION IS NOT
13 CREDIBLE, THE COMMISSIONER, AFTER CONSULTATION WITH THE
14 COMMISSION, MAY REQUEST THAT THE LANDOWNER, AT THE
15 LANDOWNER'S EXPENSE, OBTAIN EITHER A SECOND APPRAISAL OR A
16 REVIEW OF THE APPRAISAL SUBMITTED WITH THE APPLICATION FROM AN
17 APPRAISER WHO MEETS THE REQUIREMENTS OF PART 7 OF TITLE 12 AND IS
18 IN GOOD STANDING WITH THE BOARD BEFORE MAKING A FINAL
19 DETERMINATION REGARDING THE APPLICATION.

20 (10) IF THE COMMISSIONER AND THE COMMISSION DO NOT
21 IDENTIFY ANY POTENTIAL DEFICIENCIES WITH AN APPLICATION, THE
22 COMMISSIONER AND THE COMMISSION SHALL APPROVE THE APPLICATION,
23 AND THE DEPARTMENT SHALL ISSUE A TAX CREDIT CERTIFICATE TO THE
24 LANDOWNER PURSUANT TO SECTION 35-82-106 IN A TIMELY MANNER SO
25 THAT THE NUMBER OF DAYS BETWEEN THE DATE A COMPLETED
26 APPLICATION IS RECEIVED BY THE DEPARTMENT AND THE DATE THE TAX
27 CREDIT CERTIFICATE IS ISSUED DOES NOT EXCEED ONE HUNDRED TWENTY
28 DAYS. ONCE A TAX CREDIT CERTIFICATE IS ISSUED, THE LANDOWNER MAY
29 CLAIM AND USE THE TAX CREDIT SUBJECT TO ANY OTHER APPLICABLE
30 PROCEDURES AND REQUIREMENTS UNDER TITLE 39.

31 (11) (a) IF ALL POTENTIAL DEFICIENCIES THAT HAVE BEEN
32 IDENTIFIED ARE SUBSEQUENTLY ADDRESSED TO THE SATISFACTION OF THE
33 COMMISSIONER AND THE COMMISSION, THE COMMISSIONER AND THE
34 COMMISSION SHALL APPROVE THE APPLICATION, AND THE DEPARTMENT
35 SHALL ISSUE A TAX CREDIT CERTIFICATE TO THE LANDOWNER PURSUANT
36 TO SECTION 35-85-106. ONCE A TAX CREDIT CERTIFICATE IS ISSUED, THE
37 LANDOWNER MAY CLAIM AND USE THE TAX CREDIT SUBJECT TO ANY
38 OTHER APPLICABLE PROCEDURES AND REQUIREMENTS UNDER TITLE 39.

39 (b) IF ANY POTENTIAL DEFICIENCIES THAT HAVE BEEN IDENTIFIED
40 ARE NOT SUBSEQUENTLY ADDRESSED TO THE SATISFACTION OF THE
41 COMMISSIONER AND THE COMMISSION, THE DEPARTMENT SHALL ISSUE A
42 WRITTEN DENIAL OF THE APPLICATION TO THE LANDOWNER DOCUMENTING
43 THOSE DEFICIENCIES THAT WERE THE SPECIFIC BASIS FOR THE DENIAL. THE

1 DEPARTMENT SHALL DATE THE WRITTEN DENIAL AND SEND IT BY FIRST
2 CLASS MAIL TO THE LANDOWNER AT THE ADDRESS PROVIDED BY THE
3 LANDOWNER ON THE APPLICATION. THE COMMISSIONER MAY ACT ON
4 BEHALF OF THE COMMISSION FOR PURPOSES OF ADMINISTERING THE
5 PROCESS FOR ISSUING APPROVALS AND DENIALS OF APPLICATIONS AND FOR
6 ADMINISTERING SUBSECTION (12) OF THIS SECTION.

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

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

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

26 (d) IN CONDUCTING SETTLEMENT DISCUSSIONS WITH A
27 LANDOWNER, THE COMMISSIONER AND THE COMMISSION MAY
28 COMPROMISE ON ANY OF THE DEFICIENCIES IDENTIFIED IN THE
29 APPLICATION AND SUPPORTING DOCUMENTATION, INCLUDING THE DOLLAR
30 AMOUNT OF THE TAX CREDIT CERTIFICATE TO BE ISSUED. THE
31 COMMISSIONER SHALL PLACE ON FILE IN THE DEPARTMENT A RECORD OF
32 ANY COMPROMISE AND THE REASONS FOR THE COMPROMISE.

33 (e) THE COMMISSIONER MAY PROMULGATE RULES PURSUANT TO
34 ARTICLE 4 OF TITLE 24 TO EFFECTUATE THE PURPOSES OF THIS SUBSECTION
35 (12).

36 (13) (a) COMMENCING WITH THE 2014 CALENDAR YEAR, AND FOR
37 EACH CALENDAR YEAR THEREAFTER, THE DEPARTMENT SHALL CREATE A
38 REPORT, WHICH SHALL BE MADE AVAILABLE TO THE PUBLIC, CONTAINING
39 THE FOLLOWING AGGREGATE INFORMATION:

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

43 (II) FOR APPLICATIONS APPROVED IN ACCORDANCE WITH THIS

1 SECTION:

2 (A) THE TOTAL ACREAGE UNDER EASEMENT SUMMARIZED BY THE
3 ALLOWABLE CONSERVATION PURPOSES AS DEFINED IN SECTION 170 (h) OF
4 THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, AND
5 ANY FEDERAL REGULATIONS PROMULGATED IN CONNECTION WITH SUCH
6 SECTION;

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

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

9 (D) THE TOTAL DOLLAR AMOUNT OF TAX CREDIT CERTIFICATES
10 ISSUED.

11 (b) THE DEPARTMENT MAY INCLUDE ADDITIONAL
12 EASEMENT-SPECIFIC INFORMATION IN THE PUBLIC REPORT THAT,
13 NOTWITHSTANDING THIS ARTICLE 82 OR ANY OTHER LAW TO THE
14 CONTRARY, WOULD OTHERWISE BE PUBLICLY AVAILABLE.

15 (c) THE COMMISSIONER IS AUTHORIZED TO SHARE PUBLICLY
16 AVAILABLE INFORMATION REGARDING CONSERVATION EASEMENTS WITH
17 A THIRD-PARTY VENDOR FOR THE PURPOSE OF DEVELOPING AND
18 MAINTAINING A REGISTRY OF CONSERVATION EASEMENTS IN THE STATE
19 WITH A CORRESPONDING MAP DISPLAYING THE BOUNDARIES OF EACH
20 EASEMENT IN THE STATE RELATIVE TO COUNTY BOUNDARIES AND OTHER
21 RELEVANT MAPPING INFORMATION. PRIOR TO SHARING THE INFORMATION,
22 THE COMMISSIONER SHALL CONSULT WITH THE COMMISSION REGARDING
23 THE APPROPRIATE TYPES OF INFORMATION AND THE METHODS USED FOR
24 COLLECTING THE INFORMATION. THE DEPARTMENT OF REGULATORY
25 AGENCIES SHALL ANNUALLY REPORT ON THE INFORMATION CONTAINED IN
26 THE REGISTRY AS A PART OF ITS PRESENTATION TO ITS COMMITTEE OF
27 REFERENCE AT A HEARING HELD PURSUANT TO SECTION 2-7-203 (2)(a) OF
28 THE "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND
29 TRANSPARENT (SMART) GOVERNMENT ACT". THE INFORMATION TO BE
30 SHARED SHALL INCLUDE THE FOLLOWING:

31 (I) ANY DEEDS, CONTRACTS, OR OTHER INSTRUMENTS CREATING,
32 ASSIGNING, TRANSFERRING, CONVEYING, TERMINATING, OR OTHERWISE
33 AFFECTING THE EASEMENT, INCLUDING THE RECEPTION NUMBERS ON ALL
34 INSTRUMENTS;

35 (II) THE LOCATION AND ACREAGE OF EACH EASEMENT,
36 DELINEATED BY COUNTY;

37 (III) THE NAMES AND ADDRESSES OF ANY GRANTORS OF THE
38 EASEMENT AND THE NAMES AND ADDRESSES OF ANY HOLDERS OF THE
39 EASEMENT SINCE ITS CREATION;

40 (IV) WHETHER THE HOLDER OF THE EASEMENT IS A CERTIFIED
41 ORGANIZATION PURSUANT TO SECTION 12-61-724;

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

43 (VI) THE AMOUNT OF ANY INCOME TAX CREDITS CLAIMED OR

1 ALLOWED FOR THE EASEMENT AND THE AMOUNT OF ANY SUCH CREDITS
2 THAT WERE TRANSFERRED TO ANOTHER TAXPAYER PURSUANT TO SECTION
3 39-22-522.

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

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

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

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

29 (15) THE DEPARTMENT MAY PROMULGATE RULES TO EFFECTUATE
30 THE PURPOSE, IMPLEMENTATION, AND ADMINISTRATION OF THIS SECTION
31 PURSUANT TO ARTICLE 4 OF TITLE 24. THE AUTHORITY TO PROMULGATE
32 RULES INCLUDES THE AUTHORITY TO DEFINE FURTHER IN RULE THE
33 ADMINISTRATIVE PROCESSES AND REQUIREMENTS, INCLUDING
34 APPLICATION PROCESSING AND REVIEW TIME FRAMES, FOR OBTAINING AND
35 ISSUING AN OPTIONAL PRELIMINARY ADVISORY OPINION PURSUANT TO
36 SUBSECTION (14) OF THIS SECTION.

37 (16) NOTWITHSTANDING THE "COLORADO OPEN RECORDS ACT",
38 PART 2 OF ARTICLE 72 OF TITLE 24, THE DEPARTMENT, THE COMMISSIONER,
39 AND THE COMMISSION SHALL DENY THE RIGHT OF PUBLIC INSPECTION OF
40 ANY DOCUMENTATION OR OTHER RECORD RELATED TO INFORMATION
41 OBTAINED AS PART OF AN INDIVIDUAL LANDOWNER'S APPLICATION FOR A
42 TAX CREDIT CERTIFICATE OR AN OPTIONAL PRELIMINARY ADVISORY
43 OPINION PURSUANT TO THE REQUIREMENTS OF THIS SECTION, INCLUDING

1 DOCUMENTATION OR OTHER RECORDS RELATED TO ADMINISTRATIVE
2 HEARINGS AND SETTLEMENT DISCUSSIONS HELD PURSUANT TO SUBSECTION
3 (12) OF THIS SECTION. THE DEPARTMENT, THE COMMISSIONER, AND THE
4 COMMISSION MAY SHARE DOCUMENTATION OR OTHER RECORDS RELATED
5 TO INFORMATION OBTAINED PURSUANT TO THIS SECTION WITH THE
6 DEPARTMENT OF REVENUE.

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

10 **35-82-108. Conservation cash fund - repeal.** (1) THERE IS
11 HEREBY CREATED IN THE STATE TREASURY THE CONSERVATION CASH
12 FUND, WHICH CONSISTS OF ANY MONEYS TRANSFERRED PURSUANT TO
13 SECTION 35-82-105 AND 35-82-107 AND ANY GIFTS, GRANTS, AND
14 DONATIONS PROVIDED TO CARRY OUT THE PURPOSES OF THIS ARTICLE 82.
15 ALL MONEY IN THE FUND SHALL BE USED AS PROVIDED IN THIS ARTICLE 82.
16 INTEREST EARNED ON THE FUND SHALL REMAIN IN THE FUND AND SHALL
17 NOT BE DEPOSITED IN OR TRANSFERRED TO THE GENERAL FUND OR ANY
18 OTHER FUND.

19 (2) ON JULY 1, 2018, THE STATE TREASURER SHALL TRANSFER TO
20 THE CONSERVATION CASH FUND ANY MONEYS IN THE DIVISION OF REAL
21 ESTATE CASH FUND CREATED IN SECTION 12-61-111.5 THAT ARE
22 ATTRIBUTABLE TO ANY FEES, GIFTS, GRANTS, OR DONATIONS CREDITED TO
23 THE DIVISION OF REAL ESTATE CASH FUND IN ACCORDANCE WITH SECTION
24 12-61-724 (3) OR SECTION 12-61-727 THAT ARE IN THE FUND
25 IMMEDIATELY PRIOR TO THE REPEAL OF SECTIONS 12-61-724 AND
26 12-61-727. THIS SUBSECTION (2) IS REPEALED EFFECTIVE JULY 1, 2019.

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

29 **12-61-111.5. Fee adjustments - cash fund created - repeal.**
30 ~~(2) (b) (II) (A) On June 30, 2017, the state treasurer shall transfer to the~~
31 ~~division of real estate cash fund all unexpended and unencumbered~~
32 ~~money that remained in the HOA information and resource center cash~~
33 ~~fund created in section 12-61-406.5, the conservation easement holder~~
34 ~~certification fund created in section 12-61-724, the conservation easement~~
35 ~~tax credit certificate review fund created in section 12-61-727, and the~~
36 ~~mortgage company and loan originator licensing cash fund created in~~
37 ~~section 12-61-908 immediately prior to the repeal of those funds.~~

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

40 **12-61-702. Definitions.** As used in this part 7, unless the context
41 otherwise requires:

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

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

3 **12-61-704. Powers and duties of the board - rules.** (1) In
4 addition to all other powers and duties imposed upon it by law, the board
5 has the following powers and duties:

6 (k) To establish classroom education and experience requirements
7 for an appraiser who prepares an appraisal for a conservation easement
8 for which a tax credit is claimed pursuant to section 39-22-522. ~~C.R.S.~~
9 The requirements must ensure that appraisers have a sufficient amount of
10 training and expertise to accurately prepare appraisals that comply with
11 the uniform standards of professional appraisal practice and any other
12 provision of law related to the appraisal of conservation easements for
13 which a tax credit is claimed. A tax credit certificate for a conservation
14 easement shall not be given in accordance with ~~sections 12-61-726 and~~
15 ~~12-61-727~~ 35-82-106 AND 35-82-107 unless the appraiser who prepared
16 the appraisal of the easement met all requirements established in
17 accordance with this ~~paragraph (k)~~ **SUBSECTION (1)(k)** in effect at the time
18 the ~~appraisal was completed~~ **ASSIGNMENT IS PERFORMED.**

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

21 **39-21-113. Reports and returns - rule.** (17) Notwithstanding
22 any other provision of this section, the executive director may require that
23 such detailed information regarding a claim for a credit for the donation
24 of a conservation easement in gross pursuant to section 39-22-522 and
25 any appraisal submitted in support of the credit claimed be given to the
26 ~~division of real estate in the department of regulatory agencies~~
27 **DEPARTMENT OF AGRICULTURE** and the conservation easement oversight
28 commission created pursuant to ~~section 12-61-725 (1), C.R.S.;~~ **SECTION**
29 **35-82-104** as the executive director determines is necessary in the
30 performance of the department's functions relating to the credit. The
31 executive director may provide copies of any appraisal and may file a
32 complaint regarding any appraisal as authorized pursuant to section
33 39-22-522 (3.3). Notwithstanding ~~the provisions of part 2 of article 72 of~~
34 ~~title 24, C.R.S.;~~ in order to protect the confidential financial information
35 of a taxpayer, the executive director shall deny the right to inspect any
36 information or appraisal required in accordance with ~~the provisions of~~
37 ~~this subsection (17).~~

38 **SECTION 6.** In Colorado Revised Statutes, 39-22-522, amend
39 (2)(b), (2.5), (2.7), (3)(f) introductory portion, (3.5)(a)(I), (3.5)(a)(II),
40 (3.5)(b), (3.6)(a)(I), (3.6)(b), and (7)(g); **repeal (8); and add (3.5)(c)** as
41 follows:

42 **39-22-522. Credit against tax - conservation easements.**
43 (2) (b) For income tax years commencing on or after January 1, 2014,

1 BUT PRIOR TO JANUARY 1, 2019, AND FOR INCOME TAX YEARS
2 COMMENCING ON OR AFTER JANUARY 1, 2022, and, with regard to any
3 credit over the amount of one hundred thousand dollars, for income tax
4 years commencing on or after January 1, 2003, subject to the provisions
5 of subsections (4) and (6) of this section, there shall be allowed a credit
6 with respect to the income taxes imposed by this article ARTICLE 22 to
7 each taxpayer who donates during the taxable year all or part of the value
8 of a perpetual conservation easement in gross created pursuant to article
9 30.5 of title 38 ~~C.R.S.~~, upon real property the taxpayer owns to a
10 governmental entity or a charitable organization described in section
11 38-30.5-104 (2). ~~C.R.S.~~ The credit shall only be allowed for a donation
12 that meets the requirements of section 170 of the federal "Internal
13 Revenue Code of 1986", as amended, and any federal regulations
14 promulgated in accordance with such section. The amount of the credit
15 shall not include the value of any portion of an easement on real property
16 located in another state.

17 (2.5) Notwithstanding any other provision of this section and the
18 requirements of ~~section 12-61-727, C.R.S.~~ SECTION 35-82-107, for
19 income tax years commencing on or after January 1, 2011, a taxpayer
20 conveying a conservation easement and claiming a credit pursuant to this
21 section shall, in addition to any other requirements of this section and the
22 requirements of ~~section 12-61-727, C.R.S.~~ SECTION 35-82-107, submit a
23 claim for the credit to the ~~division of real estate in the department of~~
24 ~~regulatory agencies~~ DEPARTMENT OF AGRICULTURE. The ~~division~~
25 DEPARTMENT OF AGRICULTURE shall issue a certificate for the claims
26 received in the order submitted. After certificates have been issued for
27 credits that exceed an aggregate of twenty-two million dollars for all
28 taxpayers for the 2011 and 2012 calendar years, thirty-four million dollars
29 for the 2013 calendar year, and forty-five million dollars for each
30 calendar year thereafter, any claims that exceed the amount allowed for
31 a specified calendar year shall be placed on a wait list in the order
32 submitted and a certificate shall be issued for use of the credit in the next
33 year for which the ~~division~~ DEPARTMENT OF AGRICULTURE has not issued
34 credit certificates in excess of the amounts specified in this subsection
35 (2.5); except that no more than fifteen million dollars in claims shall be
36 placed on the wait list in any given calendar year. The ~~division~~
37 DEPARTMENT OF AGRICULTURE shall not issue credit certificates that
38 exceed twenty-two million dollars in each of the 2011 and 2012 calendar
39 years, thirty-four million dollars for the 2013 calendar year, and forty-five
40 million dollars for each calendar year thereafter. No claim for a credit is
41 allowed for any income tax year commencing on or after January 1, 2011,
42 unless a certificate has been issued by the ~~division~~ DEPARTMENT OF
43 AGRICULTURE. If all other requirements under ~~section 12-61-727, C.R.S.~~

1 SECTION 35-82-107 and this section are met, the right to claim the credit
2 is vested in the taxpayer at the time a credit certificate is issued.

3 (2.7) Notwithstanding any other provision, for income tax years
4 commencing on or after January 1, 2014, no claim for a credit shall be
5 allowed unless a tax credit certificate is issued by the ~~division of real~~
6 ~~estate~~ DEPARTMENT OF AGRICULTURE in accordance with ~~sections~~
7 ~~12-61-726 and 12-61-727, C.R.S.~~; SECTIONS 35-82-106 AND 35-82-107
8 and the taxpayer files the tax credit certificate with the income tax return
9 filed with the department of revenue.

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

16 (f) If the holder of the conservation easement is an organization
17 to which the certification program in ~~section 12-61-724~~ SECTION
18 35-82-105 applies, a sworn affidavit from the holder of the conservation
19 easement in gross that includes the following:

20 (3.5) (a) For conservation easements donated prior to January 1,
21 2014:

22 (I) The executive director shall have the authority, pursuant to
23 subsection (8) of this section, to require additional information from the
24 taxpayer or transferee regarding the appraisal value of the easement, the
25 amount of the credit, and the validity of the credit. In resolving disputes
26 regarding the validity or the amount of a credit allowed pursuant to
27 subsection (2) of this section, including the value of the conservation
28 easement for which the credit is granted, the executive director shall have
29 the authority, for good cause shown and in consultation with the ~~division~~
30 ~~of real estate~~ DEPARTMENT OF AGRICULTURE and the conservation
31 easement oversight commission created in ~~section 12-61-725 (1), C.R.S.~~
32 SUBSECTION 35-82-104 (1) to review and accept or reject, in whole or in
33 part, the appraisal value of the easement, the amount of the credit, and the
34 validity of the credit based upon the internal revenue code and federal
35 regulations in effect at the time of the donation. If the executive director
36 reasonably believes that the appraisal represents a gross valuation
37 misstatement, receives notice of such a valuation misstatement from the
38 division of real estate, or receives notice from the division of real estate
39 that an enforcement action has been taken by the board of real estate
40 appraisers against the appraiser, the executive director shall have the
41 authority to require the taxpayer to provide a second appraisal at the
42 expense of the taxpayer. The second appraisal shall be conducted by a
43 certified general appraiser in good standing and not affiliated with the

1 first appraiser that meets qualifications established by the division of real
2 estate. In the event the executive director rejects, in whole or in part, the
3 appraisal value of the easement, the amount of the credit, or the validity
4 of the credit, the procedures described in sections 39-21-103, 39-21-104,
5 39-21-104.5, and 39-21-105 shall apply.

6 (II) In consultation with the ~~division of real estate~~ DEPARTMENT
7 OF AGRICULTURE and the conservation easement oversight commission
8 created in ~~section 12-61-725 (1), C.R.S.~~ SECTION 35-82-104 (1), the
9 executive director shall develop and implement a separate process for the
10 review by the department of revenue of gross conservation easements.
11 The review process shall be consistent with the statutory obligations of
12 the ~~division~~ DEPARTMENT OF AGRICULTURE and the commission and shall
13 address gross conservation easements for which the department of
14 revenue has been informed that an audit is being performed by the
15 internal revenue service. The executive director shall share information
16 used in the review of gross conservation easements with the ~~division~~
17 DEPARTMENT OF AGRICULTURE. Notwithstanding part 2 of article 72 of
18 title 24, ~~C.R.S.~~; in order to protect the confidential financial information
19 of a taxpayer, the ~~division~~ DEPARTMENT OF AGRICULTURE and the
20 commission shall deny the right to inspect any information provided by
21 the executive director in accordance with this subparagraph ~~(II)~~
22 SUBSECTION (3.5)(a)(II).

23 (b) For conservation easements donated on or after January 1,
24 2014, and subject to the restrictions of ~~section 12-61-727 (4), C.R.S.~~
25 SECTION 35-82-107 (4), the executive director shall have the authority,
26 pursuant to subsection (8) of this section, to require additional
27 information from the taxpayer or transferee regarding the amount of the
28 credit and the validity of the credit. In resolving disputes regarding the
29 validity or the amount of a credit allowed pursuant to subsection (2) of
30 this section, the executive director shall have the authority, for good cause
31 shown, to review and accept or reject, in whole or in part, the amount of
32 the credit and the validity of the credit based upon the internal revenue
33 code and federal regulations in effect at the time of the donation, except
34 those requirements for which authority is granted to the ~~division of real~~
35 ~~estate, the director of the division of real estate~~ DEPARTMENT OF
36 AGRICULTURE, THE COMMISSIONER OF AGRICULTURE, or the conservation
37 easement oversight commission pursuant to ~~section 12-61-727, C.R.S.~~
38 SECTION 35-82-107.

39 (c) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
40 FOR ANY CONSERVATION EASEMENT IN GROSS DONATED FOR ANY TAX
41 YEAR COMMENCING ON OR AFTER JANUARY 1, 2000, FOR WHICH A CREDIT
42 CLAIMED PURSUANT TO THIS SECTION WAS SUBSEQUENTLY DENIED IN
43 WHOLE OR IN PART BECAUSE THE APPRAISED VALUE OF THE EASEMENT

1 WAS DETERMINED BY THE STATE TO BE TOO HIGH, THE TAXPAYER MAY
2 ELECT IN ANY SUBSEQUENT TAX YEAR TO AMEND THE RETURN FOR SUCH
3 TAX YEAR AND NOT CLAIM THE CREDIT. UPON AMENDING A RETURN AND
4 REPAYING TO THE STATE THE AMOUNT, IF ANY, ALLOWED BY THE STATE
5 AND CLAIMED BY THE TAXPAYER FOR SUCH TAX YEAR, THE TAXPAYER
6 SHALL BE ENTITLED TO REPAYMENT FROM THE STATE OF THE FULL
7 AMOUNT OF ANY INTEREST OR PENALTIES PAID BY OR ON BEHALF OF THE
8 TAXPAYER TO THE STATE IN CONNECTION WITH THE DENIAL OF THE
9 ORIGINAL CLAIM FOR THE CREDIT.

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

16 (a) (I) A tax credit certificate issued under ~~section 12-61-727;~~
17 ~~C.R.S. SECTION 35-82-107;~~ and

18 (b) Notwithstanding any other provisions of law, the executive
19 director retains the authority to administer all issues related to the claim
20 or use of a tax credit for the donation of a conservation easement that are
21 not granted to the ~~director of the division of real estate~~ DEPARTMENT OF
22 AGRICULTURE, THE COMMISSIONER OF AGRICULTURE, or the conservation
23 easement oversight commission under ~~section 12-61-727, C.R.S. SECTION~~
24 ~~35-82-107.~~

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

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

33 (8) ~~On or before August 1, 2011, the conservation easement~~
34 ~~oversight commission created in section 12-61-725 (1), C.R.S., shall~~
35 ~~review conservation easements for which a tax credit is claimed pursuant~~
36 ~~to sections 39-22-522 (3.5)(a) and 12-61-725 (3), C.R.S., and for which~~
37 ~~a notice of deficiency, notice of rejection of refund claim, or notice of~~
38 ~~disallowance issued on or before May 1, 2011, but for which a final~~
39 ~~determination has not been issued before May 19, 2011, and for which the~~
40 ~~commission has not already reviewed the credit. For each conservation~~
41 ~~easement tax credit claim so reviewed, the commission shall issue an~~
42 ~~initial recommendation to the executive director on whether each credit~~
43 ~~claimed by a taxpayer who is eligible to waive a hearing and appeal a~~

1 ~~notice of deficiency, notice of rejection of refund claim, or notice of~~
2 ~~disallowance may be denied or accepted. No other information shall be~~
3 ~~required of the commission on or before such date.~~

4 **SECTION 7.** In Colorado Revised Statutes, **add** 29-20-110 as
5 follows:

6 **29-20-110. Conservation easements - public hearing.** (1) ON
7 AND AFTER THE EFFECTIVE DATE OF THIS SECTION, PRIOR TO CREATING,
8 MODIFYING THE TERMS OF, OR TRANSFERRING A CONSERVATION
9 EASEMENT IN GROSS PURSUANT TO ARTICLE 30.5 OF TITLE 38, THE
10 GOVERNING BODY OF A LOCAL GOVERNMENT WITHIN WHICH THE
11 PROPERTY IS LOCATED SHALL HOLD A PUBLIC HEARING REGARDING THE
12 CREATION, MODIFICATION, OR TRANSFER OF THE EASEMENT AS PROVIDED
13 IN THIS SECTION. IF THE PROPERTY IS LOCATED ENTIRELY WITHIN THE
14 UNINCORPORATED PORTION OF ONE OR MORE COUNTIES, THE BOARD OF
15 COUNTY COMMISSIONERS OF THE COUNTY WITH THE GREATEST PORTION
16 OF THE PROPERTY SHALL HOLD THE HEARING. IF THE PROPERTY IS
17 LOCATED IN WHOLE OR IN PART WITHIN ONE OR MORE MUNICIPALITIES, THE
18 GOVERNING BODY OF THE MUNICIPALITY WITH THE GREATEST PORTION OF
19 THE PROPERTY SHALL HOLD THE HEARING.

20 (2) AT LEAST FOURTEEN DAYS' NOTICE OF THE TIME AND PLACE OF
21 A HEARING REQUIRED BY THIS SECTION SHALL BE GIVEN BY AT LEAST ONE
22 PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION WITHIN THE
23 LOCAL GOVERNMENT. THE NOTICE SHALL DISCLOSE THE LOCATION,
24 ACREAGE, NAME OF THE GRANTOR, NAME OF THE HOLDER, AND
25 CONSERVATION PURPOSES OF THE CONSERVATION EASEMENT AND SPECIFY
26 THE AMOUNT OF ANY PUBLIC MONEY USED OR TAX CREDITS THAT WILL BE
27 CLAIMED IN CONNECTION WITH THE EASEMENT. THE GRANTOR AND
28 HOLDER OF THE CONSERVATION EASEMENT SHALL BE ALLOWED TO
29 PRESENT INFORMATION ABOUT THE CONSERVATION EASEMENT AND PUBLIC
30 TESTIMONY SHALL BE ALLOWED AT THE HEARING. THE PURPOSE OF THE
31 HEARING IS TO PROVIDE PUBLIC NOTICE REGARDING THE EASEMENT, AND
32 THE GOVERNING BODY OF THE LOCAL GOVERNMENT NEED NOT TAKE ANY
33 SPECIFIC ACTION WITH RESPECT TO THE PROPOSED CREATION,
34 MODIFICATION, OR TRANSFER. IF A LOCAL GOVERNMENT HAS AN EXISTING
35 APPROVAL PROCESS FOR CONSERVATION EASEMENTS, THE HEARING
36 REQUIRED BY THIS SECTION MAY BE CONDUCTED IN CONJUNCTION WITH
37 ANY OTHER HEARING REQUIRED BY PROCESS AS LONG AS THE HEARING
38 OTHERWISE MEETS THE REQUIREMENTS OF THIS SECTION.

39 **SECTION 8.** In Colorado Revised Statutes, **amend** 38-30.5-107
40 as follows:

41 **38-30.5-107. Release - termination.** (1) Conservation easements
42 in gross may, in whole or in part, be released, terminated, extinguished,
43 or abandoned by merger with the underlying fee interest in the servient

1 land or water rights or in any other manner in which easements may be
2 lawfully terminated, released, extinguished, or abandoned. FOR
3 EASEMENTS CREATED ON OR AFTER JANUARY 1, 2019, IF A CONSERVATION
4 EASEMENT IS ORPHANED OR NEGLECTED, THE LANDOWNER MAY PETITION
5 THE DISTRICT COURT OF THE COUNTY IN WHICH THE PROPERTY IS SITUATED
6 TO REQUEST A TRANSFER OF THE EASEMENT TO ANOTHER HOLDER OR FOR
7 AN ORDER THAT THE ABANDONMENT OR NEGLECT OF THE CONSERVATION
8 EASEMENT HAS RESULTED IN CIRCUMSTANCES WHICH MAKE THE
9 CONTINUED USE OF THE PROPERTY FOR CONSERVATION PURPOSES
10 IMPOSSIBLE OR IMPRACTICABLE. THE PETITION TO THE DISTRICT COURT
11 SHALL ALSO BE SERVED ON THE ATTORNEY GENERAL AND THE ATTORNEY
12 GENERAL SHALL BE ENTITLED TO BE HEARD.

13 (2) IN ADDITION TO THE METHODS SET FORTH IN SUBSECTION (1)
14 OF THIS SECTION, A COURT EXERCISING ITS EQUITABLE JURISDICTION MAY
15 TERMINATE A CONSERVATION EASEMENT IN GROSS CREATED FOR THE
16 PURPOSE OF CLAIMING A STATE INCOME TAX CREDIT PURSUANT TO
17 SECTION 39-22-522, IF:

18 (a) THE STATE HAS REJECTED THE CLAIM FOR THE CREDIT OR THE
19 TAXPAYER HAS ELECTED NOT TO CLAIM THE CREDIT PURSUANT TO SECTION
20 39-22-522 (5)(c);

21 (b) THE EASEMENT HAS BEEN APPRAISED TO HAVE NO VALUE OR
22 NO MORE THAN A NOMINAL DOLLAR VALUE; AND

23 (c) THE HOLDER OF THE EASEMENT EITHER PROVIDED NO
24 COMPENSATION FOR THE EASEMENT OR HAS BEEN REIMBURSED IN WHOLE
25 FOR ANY COMPENSATION PROVIDED.

26 **SECTION 9.** In Colorado Revised Statutes, 24-34-104, repeal
27 (14)(a)(II); and add (26)(a)(VIII) and (26)(a)(IX) as follows:

28 **24-34-104. General assembly review of regulatory agencies**
29 **and functions for repeal, continuation, or reestablishment - legislative**
30 **declaration - repeal.** (14) (a) The following agencies, functions, or both,
31 are scheduled for repeal on July 1, 2018:

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

34 (26) (a) The following agencies, functions, or both, are scheduled
35 for repeal on September 1, 2025:

36 (VIII) THE CONSERVATION EASEMENT OVERSIGHT COMMISSION
37 CREATED IN SECTION 35-82-104; AND

38 (IX) THE CERTIFICATION OF CONSERVATION EASEMENT HOLDERS
39 BY THE CONSERVATION EASEMENT OVERSIGHT COMMISSION AS PROVIDED
40 FOR IN SECTION 35-82-106.

41 **SECTION 10. Repeal of relocated provisions in this act.** In
42 Colorado Revised Statutes, repeal 12-61-724, 12-61-725, 12-61-726, and
43 12-61-727.

1 **SECTION 12. Act subject to petition - effective date.** This act
2 takes effect at 12:01 a.m. on the day following the expiration of the
3 ninety-day period after final adjournment of the general assembly (August
4 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
5 referendum petition is filed pursuant to section 1 (3) of article V of the
6 state constitution against this act or an item, section, or part of this act
7 within such period, then the act, item, section, or part will not take effect
8 unless approved by the people at the general election to be held in
9 November 2018 and, in such case, will take effect on the date of the
10 official declaration of the vote thereon by the governor."

** ** ** ** **