

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 16-0186.01 Gregg Fraser x4325

**HOUSE BILL 16-1174**

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**HOUSE SPONSORSHIP**

**Becker J.,**

**SENATE SPONSORSHIP**

**(None),**

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**House Committees**

State, Veterans, & Military Affairs  
Finance  
Appropriations

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING A PERPETUAL CONSERVATION EASEMENT IN GROSS**  
102 **GRANTED FOR PROPERTY IN COLORADO FOR WHICH A TAX**  
103 **CREDIT CLAIM HAS BEEN REJECTED.**

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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://www.leg.state.co.us/bills summaries>.)*

Under current law, a state income tax credit is allowed for a portion of the value of a perpetual conservation easement that is granted by a taxpayer on real property located in Colorado. The bill restricts the ability of the executive director of the department of revenue to contest an appraisal and credit claimed for an easement donated prior to January

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

1, 2008, for which a final settlement has not been reached by July 1, 2016, unless:

- ! The executive director has produced clear and convincing evidence of an overvaluation of the easement, confirmed in writing by the state attorney general prior to a specified date; or
- ! The valuation is supported solely by an appraisal from an appraiser convicted of fraud or misrepresentation in connection with preparing the appraisal.

The law currently allows a conservation easement to be terminated in the same manner as any other easement. The bill specifies that, in addition, a court may exercise its equitable jurisdiction to terminate a conservation easement for which a tax credit has been claimed in certain circumstances if the claim has been rejected.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-22-522.5, **amend**  
3 (2) introductory portion, (2) (c), (2) (d), and (6) as follows:

4 **39-22-522.5. Conservation easement tax credits - dispute**  
5 **resolution - legislative declaration.** (2) For any credit claimed pursuant  
6 to section 39-22-522, for which a notice of deficiency, notice of  
7 disallowance, or notice of rejection of refund claim has been mailed by  
8 the department of revenue as of May 1, 2011, but for which a final  
9 determination has not been issued before May 19, 2011, the tax matters  
10 representative may elect to waive the administrative process provided by  
11 section 39-21-103 and appeal the notice of deficiency, disallowance, or  
12 rejection of refund claim directly to a district court in accordance with the  
13 following provisions, which also apply to an appeal filed in accordance  
14 with subsection (6) of this section; except that paragraphs **PARAGRAPH (a)**  
15 **(c), and (d)** of this subsection (2) shall not apply to such an appeal:

16 (c) If a tax matters representative elects to waive the  
17 administrative process and appeal directly to a district court pursuant to

1 this subsection (2), no surety bond or other deposit shall be required in  
2 connection with the appeal. ~~This paragraph (c) shall not apply to tax~~  
3 ~~matters representatives who do not elect to waive the administrative~~  
4 ~~process.~~

5 (d) If the tax matters representative elects to waive the  
6 administrative process and appeal directly to a district court pursuant to  
7 this subsection (2), additional interest and penalties shall cease to accrue  
8 while the matter is on appeal before the district court, beginning with the  
9 date the notice of appeal is received by the district court. ~~This paragraph~~  
10 ~~(d) shall not apply to tax matters representatives who do not elect to~~  
11 ~~waive the administrative process.~~

12 (6) For any tax matters representative for which the executive  
13 director issued a final determination on or after May 1, 2011, the tax  
14 matters representative may appeal the final determination of the executive  
15 director pursuant to the provisions of section 39-21-105. NO SURETY  
16 BOND OR OTHER DEPOSIT SHALL BE REQUIRED IN CONNECTION WITH  
17 EITHER AN ADMINISTRATIVE REVIEW OR A JUDICIAL APPEAL OF A CLAIM OF  
18 A TAX CREDIT. ADDITIONAL INTEREST AND PENALTIES SHALL NOT ACCRUE  
19 PRIOR TO THE TIME THE EXECUTIVE DIRECTOR ISSUES A FINAL  
20 DETERMINATION OR WHILE THE MATTER IS ON APPEAL. The procedure  
21 governing such appeal shall be in accordance with the provisions of  
22 subsection (2) of this section; except that ~~paragraphs~~ PARAGRAPH (a) ~~(c),~~  
23 ~~and (d)~~ of said subsection (2) shall not apply. If a tax matters  
24 representative fails to file a timely appeal pursuant to this subsection (6),  
25 any person who has claimed a credit or who may be eligible to claim a tax  
26 credit in relation to the tax matters representative's donation may petition  
27 the department to change the tax matters representative's designation

1 within ten days after the final date for filing an appeal. The executive  
2 director shall promulgate rules on or before September 1, 2011,  
3 specifying the procedures for a change to the tax matters representative's  
4 designation when the executive director determines that the tax matters  
5 representative is unavailable or unwilling to act as the tax matters  
6 representative. If the department of revenue grants the petition, the new  
7 tax matters representative may file an appeal pursuant to the provisions  
8 of this subsection (6) within thirty days of the department's order  
9 regarding the petition.

10 **SECTION 2. Safety clause.** The general assembly hereby finds,  
11 determines, and declares that this act is necessary for the immediate  
12 preservation of the public peace, health, and safety.