

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 13-0599.01 Gregg Fraser x4325

SENATE BILL 13-130

SENATE SPONSORSHIP

Marble, Crowder, Lundberg

HOUSE SPONSORSHIP

Saine,

Senate Committees

Finance

Agriculture, Natural Resources, & Energy

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE TERM OF A CONSERVATION EASEMENT FOR WHICH**
102 **A STATE INCOME TAX CREDIT IS CLAIMED.**

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/billsummaries>.)

Taxpayers are allowed to claim a state income tax credit for a portion of the value of a conservation easement that the taxpayer donates. The law currently requires the easement to be perpetual.

The bill allows future donations to have terms of not less than 25 years. The easement would otherwise have to comply with all federal and

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.

state requirements for conservation easements. The valuation of the easement for purposes of calculating the tax credit would have to take into account the fact that the easement is not perpetual.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-22-522, **amend**
3 (2); and **add** (12) as follows:

4 **39-22-522. Credit against tax - conservation easements.**
5 (2) For income tax years commencing on or after January 1, 2000, and,
6 with regard to any credit over the amount of one hundred thousand
7 dollars, for income tax years commencing on or after January 1, 2003,
8 subject to the provisions of subsections (4), ~~and~~ (6), AND (12) of this
9 section, there shall be allowed a credit with respect to the income taxes
10 imposed by this article to each taxpayer who donates during the taxable
11 year all or part of the value of a perpetual conservation easement in gross
12 created pursuant to article 30.5 of title 38, C.R.S., upon real property the
13 taxpayer owns to a governmental entity or a charitable organization
14 described in section 38-30.5-104 (2), C.R.S. The credit shall only be
15 allowed for a donation that is eligible to qualify as a qualified
16 conservation contribution pursuant to section 170 (h) of the internal
17 revenue code, as amended, and any federal regulations promulgated in
18 connection with such section. The amount of the credit shall not include
19 the value of any portion of an easement on real property located in
20 another state.

21 (12) (a) NOTWITHSTANDING ANY OTHER PROVISION OF THIS
22 SECTION TO THE CONTRARY, FOR INCOME TAX YEARS COMMENCING ON OR
23 AFTER JANUARY 1, 2014, A TAXPAYER MAY CLAIM A CREDIT FOR THE
24 DONATION OF A CONSERVATION EASEMENT THAT IS NOT PERPETUAL SO

1 LONG AS THE TERM STATED IN THE INSTRUMENT CREATING THE EASEMENT
2 SPECIFIES THAT IT EXPIRES AFTER A TERM OF NOT LESS THAN TWENTY-FIVE
3 YEARS.

4 (b) EXCEPT FOR THE TERM ALLOWED IN PARAGRAPH (a) OF THIS
5 SUBSECTION (12), THE EASEMENT MUST IN ALL OTHER RESPECTS COMPLY
6 WITH THE REQUIREMENTS OF THIS SECTION, SECTION 170 OF THE INTERNAL
7 REVENUE CODE, AS AMENDED, AND ANY FEDERAL REGULATIONS
8 PROMULGATED IN CONNECTION WITH SUCH SECTION. A CREDIT MUST BE
9 ALLOWED PURSUANT TO THIS SUBSECTION (12) EVEN IF THE TAXPAYER
10 DOES NOT CLAIM OR IS NOT ELIGIBLE FOR A FEDERAL INCOME TAX CREDIT
11 FOR THE DONATION. THE APPRAISED VALUE OF THE EASEMENT MUST
12 REFLECT THE FACT THAT IT IS NOT A PERPETUAL EASEMENT. NOTHING IN
13 THIS SECTION SHALL BE CONSTRUED TO AFFECT THE STATUS OR
14 TREATMENT OF A PERPETUAL CONSERVATION EASEMENT OR ANY CLAIM
15 FOR A TAX CREDIT FOR THE DONATION OF A PERPETUAL CONSERVATION
16 EASEMENT PURSUANT TO THIS SECTION.

17 **SECTION 2. Act subject to petition - effective date.** This act
18 takes effect at 12:01 a.m. on the day following the expiration of the
19 ninety-day period after final adjournment of the general assembly (August
20 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a
21 referendum petition is filed pursuant to section 1 (3) of article V of the
22 state constitution against this act or an item, section, or part of this act
23 within such period, then the act, item, section, or part will not take effect
24 unless approved by the people at the general election to be held in
25 November 2014 and, in such case, will take effect on the date of the
26 official declaration of the vote thereon by the governor.