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SENATE BILL 13-221

BY SENATOR(S) King, Guzman, Tochtrop, Baumgardner, Cadman, Crowder, Grantham, Harvey, Jahn, Jones, Kefalas, Newell, Renfroe, Roberts, Scheffel, Schwartz, Todd;
also REPRESENTATIVE(S) Ryden, Sonnenberg, Williams, Court, Fields, Labuda, May, Mitsch Bush, Salazar.

CONCERNING AN APPLICATION AND REVIEW PROCESS FOR ISSUING TAX CREDIT CERTIFICATES FOR A STATE INCOME TAX CREDIT ALLOWED FOR THE DONATION OF A PERPETUAL CONSERVATION EASEMENT, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds that:

(a) The ability of landowners to claim a state income tax credit for the donation of a conservation easement is an important tool to help preserve the scenic beauty, natural resources, agricultural lands, and wildlife of Colorado; and

(b) Adoption of a conservation easement tax credit certificate application and review process, including the ability for landowners to

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

obtain an optional preliminary advisory opinion regarding a proposed conservation easement donation, would:

(I) Continue to provide Colorado landowners an economic incentive to conserve and preserve their land in a predominantly natural, scenic, or open condition;

(II) Ensure landowners' continued ability to claim, use, and transfer tax credits for valid conservation easement donations;

(III) Ensure that the appraisal, conservation purpose, and other aspects of a conservation easement donation are sufficiently scrutinized for compliance with applicable requirements before a tax credit certificate is issued vesting the landowner's right to claim the credit;

(IV) Ensure that reviews of tax credit certificate applications are timely;

(V) Provide clearer lines of authority, responsibility, and accountability; and

(VI) Minimize uncertainty for landowners to the greatest extent possible.

SECTION 2. In Colorado Revised Statutes, 12-61-704, **add** (1) (I) as follows:

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

(I) TO ESTABLISH CLASSROOM EDUCATION AND EXPERIENCE REQUIREMENTS FOR AN APPRAISER WHO PREPARES AN APPRAISAL FOR A CONSERVATION EASEMENT FOR WHICH A TAX CREDIT IS CLAIMED PURSUANT TO SECTION 39-22-522, C.R.S. SUCH REQUIREMENTS MUST ENSURE THAT APPRAISERS HAVE A SUFFICIENT AMOUNT OF TRAINING AND EXPERTISE TO ACCURATELY PREPARE APPRAISALS THAT COMPLY WITH THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE AND ANY OTHER PROVISION OF LAW RELATED TO THE APPRAISAL OF CONSERVATION EASEMENTS FOR WHICH A TAX CREDIT IS CLAIMED. A TAX CREDIT

CERTIFICATE FOR A CONSERVATION EASEMENT SHALL NOT BE GIVEN IN ACCORDANCE WITH SECTIONS 12-61-722 AND 12-61-723 UNLESS THE APPRAISER WHO PREPARED THE APPRAISAL OF THE EASEMENT MET ALL REQUIREMENTS ESTABLISHED IN ACCORDANCE WITH THIS PARAGRAPH (1) IN EFFECT AT THE TIME THE APPRAISAL WAS COMPLETED.

SECTION 3. In Colorado Revised Statutes, 12-61-719, **amend** (8); and **add** (9) as follows:

12-61-719. Conservation easement appraisals - fund created - repeal. (8) Any appraiser who submits a copy of an appraisal to the division in accordance with the requirements of this section shall pay the division a fee as prescribed by the division. The fee shall cover the costs of the division in administering the requirements of this section. The division shall have the authority to accept and expend gifts, grants, and donations for the purposes of this section. The state treasurer shall credit fees, gifts, grants, and donations to the conservation easement appraisal review fund, which fund is hereby created in the state treasury. Moneys in the fund shall be annually appropriated to the division for the purposes of implementing and administering this section and shall not revert to the general fund at the end of any fiscal year. The fund shall be maintained in accordance with section 24-75-402, C.R.S. On or before January 1, 2009, and on or before each January 1 thereafter, the division shall certify to the general assembly the amount of the fee prescribed by the division pursuant to this subsection (8). UPON THE REPEAL OF THIS SECTION, ANY MONEYS REMAINING IN THE FUND SHALL BE TRANSFERRED TO THE CONSERVATION EASEMENT TAX CREDIT CERTIFICATE REVIEW FUND CREATED IN SECTION 12-61-723 (6).

(9) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2014.

SECTION 4. In Colorado Revised Statutes, 12-61-720, **amend** (8) and (13); and **add** (11.5) as follows:

12-61-720. Certification of conservation easement holders - fund created - rules - repeal. (8) ~~Beginning one year after the division commences accepting applications to certify the type of entity that holds a conservation easement in accordance with the provisions of subsection (7) of this section,~~ A CONSERVATION EASEMENT tax credit CERTIFICATE APPLICATION may be ~~claimed for the easement~~ SUBMITTED pursuant to ~~section 39-22-522, C.R.S.,~~ SECTION 12-61-723 only if the entity has been

certified in accordance with the provisions of this section at the time the donation of the easement is made. The division shall make information available to the public concerning the date that it commences accepting applications for entities that hold conservation easements and the requirements of this subsection (8).

(11.5) THE DIVISION SHALL HAVE THE AUTHORITY TO SUBPOENA PERSONS AND DOCUMENTS, WHICH MAY BE ENFORCED BY A COURT OF COMPETENT JURISDICTION IF NOT OBEYED, FOR PURPOSES OF CONDUCTING INVESTIGATIONS PURSUANT TO SUBSECTION (11) OF THIS SECTION.

(13) This section is repealed, effective July 1, 2018. PRIOR TO SUCH REPEAL, THE CERTIFICATION REQUIREMENT SHALL BE REVIEWED AS PROVIDED FOR IN SECTION 24-34-104, C.R.S.

SECTION 5. In Colorado Revised Statutes, 12-61-721, **amend** (1) (d), (3), (4), and (6); and **add** (1.3) as follows:

12-61-721. Conservation easement oversight commission - created - repeal. (1) There is hereby created in the division a conservation easement oversight commission consisting of nine members as follows:

(d) Six members appointed by the governor as follows with at least one member with the following qualifications or representing the following interests:

(I) ~~A local land trust~~ CERTIFIED IN ACCORDANCE WITH SECTION 12-61-720;

(II) ~~A statewide or national land trust~~ A LAND TRUST OR LOCAL GOVERNMENT OPEN SPACE OR LAND CONSERVATION AGENCY CERTIFIED IN ACCORDANCE WITH SECTION 12-61-720;

(III) A local government open space or land conservation agency CERTIFIED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 12-61-720;

(IV) ~~An historic preservation organization with experience in easements on properties of historical significance~~ AN INDIVIDUAL WHO IS COMPETENT AND QUALIFIED TO ANALYZE THE CONSERVATION PURPOSE OF CONSERVATION EASEMENTS;

(V) A certified general appraiser with experience in conservation easements who meets any classroom education and experience requirements established by the board in accordance with ~~section 12-61-719~~ SECTION 12-61-704 (1)(l); and

(VI) A landowner that has donated a conservation easement in Colorado.

(1.3) THE COMMISSION SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS UNDER THE DIVISION AS IF TRANSFERRED THERETO BY A **TYPE 2** TRANSFER AS SUCH TRANSFER IS DEFINED IN THE "ADMINISTRATIVE ORGANIZATION ACT OF 1968", ARTICLE 1 OF TITLE 24, C.R.S.

(3) (a) ~~AT THE REQUEST OF THE DIVISION OR THE DEPARTMENT OF REVENUE, the commission shall advise the division and the department of revenue regarding conservation easements for which a state income tax credit is claimed pursuant to section 39-22-522, C.R.S. At the request of the division or the department, the commission shall review conservation easement transactions, applications, and other documents and advise the division and the department regarding conservation values consistent with section 170 (h) of the federal "Internal Revenue Code of 1986", as amended, the capacity of conservation easement holders, and the integrity and accuracy of conservation easement transactions related to the tax credits.~~

~~(b) On or before July 1, 2011, and on a quarterly basis thereafter, the commission shall provide a report to the joint budget committee and the finance committees of the general assembly describing the number of credits for which the executive director of the department of revenue has sought the advice of the commission pursuant to paragraph (a) of this subsection (3), the date any such advice was sought, the number of credits for which the commission provided advice to the executive director, and the date any such advice was provided.~~

(c) THE COMMISSION SHALL REVIEW CONSERVATION EASEMENT TAX CREDIT CERTIFICATE APPLICATIONS AND REQUESTS FOR OPTIONAL PRELIMINARY ADVISORY OPINIONS IN ACCORDANCE WITH SECTION 12-61-723.

(4) The commission shall meet not less than once each quarter. ~~to review applications for conservation easement holder certification submitted in accordance with section 12-61-720 and to review any other issues referred to the commission by the division, the department of revenue, or any other state entity.~~ The division shall convene the meetings of the commission and provide staff support as requested by the commission. A majority of the members of the commission ~~shall constitute~~ CONSTITUTES a quorum for the transaction of all business, and actions of the commission ~~shall~~ require a vote of a majority of such members present in favor of the action taken. THE COMMISSION MAY DELEGATE TO THE DIRECTOR THE AUTHORITY TO ACT ON BEHALF OF THE COMMISSION ON SUCH OCCASIONS AND IN SUCH CIRCUMSTANCES AS THE COMMISSION DEEMS NECESSARY FOR THE EFFICIENT AND EFFECTIVE ADMINISTRATION AND EXECUTION OF THE COMMISSION'S RESPONSIBILITIES UNDER THIS PART 7.

(6) The commission shall ~~meet at least quarterly~~ ADVISE and make recommendations to the ~~division~~ DIRECTOR regarding the certification ~~program~~ OF CONSERVATION EASEMENT HOLDERS IN ACCORDANCE WITH SECTION 12-61-720. The division shall have the authority to determine whether an applicant for certification possesses the necessary qualifications for certification required by the rules adopted by the division. If the division determines that an applicant does not possess the applicable qualifications for certification or that the applicant has violated any provision of this part 7, the rules promulgated by the division, or any division order, the division may deny the applicant a certification or deny the renewal of a certification; and, in such instance, the division shall provide the applicant with a statement in writing setting forth the basis of the division's determination. The applicant may request a hearing on the determination as provided in section 24-4-104 (9), C.R.S. The division shall notify successful applicants in writing. An applicant that is not certified may reapply for certification in accordance with procedure established by the division.

SECTION 6. In Colorado Revised Statutes, **amend** 12-61-722 as follows:

12-61-722. Conservation easement tax credit certificates. (1) The division shall receive ~~claims~~ TAX CREDIT CERTIFICATE APPLICATIONS from and issue certificates to ~~certified conservation easement holders~~ LANDOWNERS for income tax credits for conservation easements donated ~~during the 2011, 2012, and 2013 calendar years~~ ON OR AFTER JANUARY 1,

2011, in accordance with ~~the provisions of~~ section 39-22-522 (2.5), C.R.S., AND THIS PART 7. Nothing in this section shall be construed to restrict or limit the authority of the division to enforce ~~the provisions of~~ this part 7. The division may promulgate rules in accordance with article 4 of title 24, C.R.S., for the issuance of the certificates. In promulgating any such rules, the division may include but shall not be limited to provisions governing the following:

(a) The review of the tax credit certificate APPLICATION PURSUANT TO THIS PART 7;

(b) The administration and financing of the certification process;

(c) The notification to the public regarding the aggregate amount of TAX CREDIT certificates that have been issued and that are on the wait list;

(d) The notification to the ~~taxpayer~~ LANDOWNER, the entity to which the easement was granted, and the department of revenue regarding the TAX CREDIT certificates issued; and

(e) Any other matters related to administering ~~the provisions of~~ section 39-22-522 (2.5), C.R.S., OR THIS PART 7.

SECTION 7. In Colorado Revised Statutes, **amend as amended by House Bill 13-1183** 12-61-722 (1) introductory portion, (1) (a), and (1) (e); and **amend** (1) (b), (1) (c), and (1) (d) as follows:

12-61-722. Conservation easement tax credit certificates. (1) The division shall receive tax credit certificate applications from and issue certificates to ~~taxpayers~~ LANDOWNERS for income tax credits for conservation easements donated on or after January 1, 2011, in accordance with section 39-22-522 (2.5), C.R.S., and this part 7. Nothing in this section shall be construed to restrict or limit the authority of the division to enforce this part 7. The division may promulgate rules in accordance with article 4 of title 24, C.R.S., for the issuance of the certificates. In promulgating any such rules, the division may include but shall not be limited to provisions governing the following:

(a) The review of the tax credit certificate application pursuant to this part 7;

- (b) The administration and financing of the certification process;
- (c) The notification to the public regarding the aggregate amount of tax credit certificates that have been issued and that are on the wait list;
- (d) The notification to the ~~taxpayer~~ LANDOWNER, the entity to which the easement was granted, and the department of revenue regarding the tax credit certificates issued; and
- (e) Any other matters related to administering section 39-22-522 (2.5), C.R.S., or this part 7.

SECTION 8. In Colorado Revised Statutes, **add** 12-61-723 as follows:

12-61-723. Conservation easement tax credit certificate application process - conservation easement tax credit certificate review fund - created - definitions. (1) FOR PURPOSES OF THIS SECTION:

(a) "APPLICATION" MEANS AN APPLICATION FOR A TAX CREDIT CERTIFICATE SUBMITTED PURSUANT TO SECTION 12-61-722 OR THIS SECTION.

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

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

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

(e) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OF REAL ESTATE OR HIS OR HER DESIGNEE.

(f) "LANDOWNER" MEANS THE RECORD OWNER OF THE SURFACE OF

THE LAND AND, IF APPLICABLE, OWNER OF THE WATER OR WATER RIGHTS BENEFICIALLY USED THEREON WHO CREATES A CONSERVATION EASEMENT IN GROSS PURSUANT TO SECTION 38-30.5-104, C.R.S.

(g) "TAX CREDIT CERTIFICATE" MEANS THE CONSERVATION EASEMENT TAX CREDIT CERTIFICATE ISSUED PURSUANT TO SECTION 12-61-722 AND THIS SECTION.

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

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

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

(III) COMPLIES WITH THE REQUIREMENTS SET FORTH IN THIS SECTION.

(b) THE LANDOWNER SHALL HAVE THE BURDEN OF PROOF REGARDING COMPLIANCE WITH ALL APPLICABLE LAWS AND REGULATIONS.

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

(a) DIVISION STAFF SHALL REVIEW EACH APPLICATION AND ADVISE AND MAKE RECOMMENDATIONS TO THE DIRECTOR AND THE COMMISSION REGARDING THE APPLICATION;

(b) THE DIRECTOR HAS AUTHORITY AND RESPONSIBILITY TO

DETERMINE THE CREDIBILITY OF THE APPRAISAL. IN DETERMINING CREDIBILITY, THE DIRECTOR SHALL CONSIDER, AT A MINIMUM, COMPLIANCE WITH THE FOLLOWING REQUIREMENTS:

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

(II) THE APPRAISAL CONFORMS WITH THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE PROMULGATED BY THE APPRAISAL STANDARDS BOARD OF THE APPRAISAL FOUNDATION AND ANY OTHER PROVISION OF LAW.

(III) THE APPRAISER HOLDS A VALID LICENSE AS A CERTIFIED GENERAL APPRAISER IN ACCORDANCE WITH THIS PART 7.

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

(c) THE DIRECTOR SHALL HAVE THE AUTHORITY AND RESPONSIBILITY TO DETERMINE COMPLIANCE WITH THE REQUIREMENTS OF SECTION 12-61-720.

(d) THE COMMISSION SHALL HAVE THE AUTHORITY AND RESPONSIBILITY TO DETERMINE WHETHER A CONSERVATION EASEMENT DONATION FOR WHICH A TAX CREDIT IS CLAIMED PURSUANT TO SECTION 39-22-522, C.R.S., IS A QUALIFIED CONSERVATION CONTRIBUTION AS DEFINED IN SECTION 170 (h) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, AND ANY FEDERAL REGULATIONS PROMULGATED IN CONNECTION WITH SUCH SECTION.

(4) THE DEPARTMENT OF REVENUE SHALL NOT HAVE THE AUTHORITY TO DISALLOW A CONSERVATION EASEMENT TAX CREDIT BASED ON ANY REQUIREMENTS THAT ARE UNDER THE JURISDICTION OF THE DIVISION, THE DIRECTOR, OR THE COMMISSION PURSUANT TO THIS SECTION.

(5) A COMPLETE TAX CREDIT CERTIFICATE APPLICATION MUST BE MADE BY THE LANDOWNER TO THE DIVISION AND MUST INCLUDE THE FOLLOWING:

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

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

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

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

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

(6) A LANDOWNER SUBMITTING AN APPLICATION FOR A TAX CREDIT CERTIFICATE PURSUANT TO THIS SECTION OR AN APPLICATION FOR AN OPTIONAL PRELIMINARY ADVISORY OPINION PURSUANT TO SUBSECTION (14) OF THIS SECTION SHALL PAY THE DIVISION A FEE AS PRESCRIBED BY THE DIVISION. THE APPLICATION FEE FOR AN OPTIONAL PRELIMINARY ADVISORY OPINION MAY BE A DIFFERENT DOLLAR AMOUNT THAN THE APPLICATION FEE FOR A TAX CREDIT CERTIFICATE. THE FEES MUST COVER THE COSTS OF THE DIVISION AND THE COMMISSION IN ADMINISTERING THE REQUIREMENTS OF THIS SECTION. THE STATE TREASURER SHALL CREDIT THE FEES COLLECTED PURSUANT TO THIS SUBSECTION (6) TO THE CONSERVATION EASEMENT TAX CREDIT CERTIFICATE REVIEW FUND, WHICH FUND IS HEREBY CREATED IN THE STATE TREASURY. THE GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE MONEYS IN THE FUND TO THE DIVISION FOR THE PURPOSES OF IMPLEMENTING AND ADMINISTERING THIS SECTION. THE MONEYS SHALL NOT REVERT TO THE GENERAL FUND AT THE END OF ANY FISCAL YEAR. THE FUND SHALL BE MAINTAINED IN ACCORDANCE WITH SECTION 24-75-402, C.R.S. ON OR BEFORE JANUARY 1, 2014, AND ON OR BEFORE EACH JANUARY 1 THEREAFTER, THE DIVISION SHALL CERTIFY TO THE GENERAL ASSEMBLY THE AMOUNT OF ANY FEES PRESCRIBED BY THE DIVISION PURSUANT TO THIS SUBSECTION (6).

(7)(a) IF, DURING THE REVIEW OF AN APPLICATION FOR A TAX CREDIT CERTIFICATE, THE DIRECTOR OR THE COMMISSION IDENTIFIES ANY POTENTIAL DEFICIENCIES, SUCH POTENTIAL DEFICIENCIES MUST BE DOCUMENTED IN A LETTER SENT TO THE LANDOWNER BY FIRST CLASS MAIL. THE DIVISION SHALL SEND LETTERS DOCUMENTING POTENTIAL DEFICIENCIES TO LANDOWNERS IN A TIMELY MANNER SUCH THAT THE AVERAGE NUMBER OF DAYS BETWEEN THE DATE A COMPLETED APPLICATION IS RECEIVED BY THE DIVISION AND THE MAILING DATE OF THE DIVISION'S LETTER TO THE LANDOWNER DOES NOT EXCEED ONE HUNDRED TWENTY DAYS.

(b) THE LANDOWNER SHALL HAVE SIXTY DAYS FROM THE MAILING DATE OF THE DIVISION'S LETTER TO ADDRESS THE POTENTIAL DEFICIENCIES IDENTIFIED BY THE DIRECTOR AND THE COMMISSION AND PROVIDE ADDITIONAL INFORMATION OR DOCUMENTATION THAT THE DIRECTOR OR THE COMMISSION DEEMS NECESSARY TO MAKE A FINAL DETERMINATION REGARDING THE APPLICATION.

(c) THE DIRECTOR AND THE COMMISSION SHALL HAVE NINETY DAYS FROM RECEIVING ANY ADDITIONAL INFORMATION OR DOCUMENTATION PROVIDED BY THE LANDOWNER TO REVIEW SUCH INFORMATION AND DOCUMENTATION AND MAKE A FINAL DETERMINATION REGARDING THE APPLICATION.

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

(8) THE DIRECTOR OR THE COMMISSION MAY DENY AN APPLICATION IF THE LANDOWNER:

(a) HAS NOT DEMONSTRATED, TO THE SATISFACTION OF THE DIRECTOR OR THE COMMISSION, THAT THE APPLICATION COMPLIES WITH ANY REQUIREMENT OF THIS PART 7;

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

(c) FAILS TO TIMELY RESPOND TO ANY WRITTEN REQUEST OR NOTICE FROM THE DIVISION, THE DIRECTOR, OR THE COMMISSION.

(9) IF THE DIRECTOR REASONABLY BELIEVES THAT ANY APPRAISAL SUBMITTED IN ACCORDANCE WITH THIS SECTION IS NOT CREDIBLE, THE DIRECTOR SHALL HAVE THE AUTHORITY, AFTER CONSULTATION WITH THE COMMISSION, TO REQUIRE THE LANDOWNER, AT THE LANDOWNER'S EXPENSE, TO OBTAIN EITHER A REVISED APPRAISAL OR A SECOND APPRAISAL FROM AN APPRAISER WHO MEETS THE REQUIREMENTS OF THIS PART 7 AND IS IN GOOD STANDING WITH THE BOARD BEFORE MAKING A FINAL DETERMINATION REGARDING THE APPLICATION.

(10) IF THE DIRECTOR AND THE COMMISSION DO NOT IDENTIFY ANY POTENTIAL DEFICIENCIES WITH AN APPLICATION, THE DIRECTOR AND THE COMMISSION SHALL APPROVE THE APPLICATION AND THE DIVISION SHALL ISSUE A TAX CREDIT CERTIFICATE TO THE LANDOWNER PURSUANT TO SECTION 12-61-722 IN A TIMELY MANNER SUCH THAT THE AVERAGE NUMBER OF DAYS BETWEEN THE DATE A COMPLETED APPLICATION IS RECEIVED BY THE DIVISION AND THE DATE THE TAX CREDIT CERTIFICATE IS ISSUED DOES NOT EXCEED ONE HUNDRED TWENTY DAYS. ONCE A TAX CREDIT CERTIFICATE IS ISSUED, THE LANDOWNER MAY CLAIM AND USE THE TAX CREDIT SUBJECT TO ANY OTHER APPLICABLE PROCEDURES AND REQUIREMENTS UNDER TITLE 39, C.R.S.

(11)(a) IF ALL POTENTIAL DEFICIENCIES THAT HAVE BEEN IDENTIFIED ARE SUBSEQUENTLY ADDRESSED TO THE SATISFACTION OF THE DIRECTOR AND THE COMMISSION, THE DIRECTOR AND THE COMMISSION SHALL APPROVE THE APPLICATION AND THE DIVISION SHALL ISSUE A TAX CREDIT CERTIFICATE TO THE LANDOWNER PURSUANT TO SECTION 12-61-722. ONCE A TAX CREDIT CERTIFICATE IS ISSUED, THE LANDOWNER MAY CLAIM AND USE THE TAX CREDIT SUBJECT TO ANY OTHER APPLICABLE PROCEDURES AND REQUIREMENTS UNDER TITLE 39, C.R.S.

(b) IF ANY POTENTIAL DEFICIENCIES THAT HAVE BEEN IDENTIFIED ARE NOT SUBSEQUENTLY ADDRESSED TO THE SATISFACTION OF THE DIRECTOR AND THE COMMISSION, THE DIVISION SHALL ISSUE A WRITTEN DENIAL OF THE APPLICATION TO THE LANDOWNER DOCUMENTING THOSE DEFICIENCIES THAT WERE THE SPECIFIC BASIS FOR THE DENIAL. THE WRITTEN DENIAL MUST BE DATED AND SENT BY FIRST CLASS MAIL TO THE LANDOWNER AT THE ADDRESS PROVIDED BY THE LANDOWNER ON THE APPLICATION. THE DIRECTOR SHALL HAVE THE AUTHORITY TO ACT ON BEHALF OF THE COMMISSION FOR PURPOSES OF ADMINISTERING THE PROCESS FOR ISSUING APPROVALS AND DENIALS OF APPLICATIONS AND FOR ADMINISTERING

SUBSECTION (12) OF THIS SECTION.

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

(b) IF THE LANDOWNER FAILS TO APPEAL THE DENIAL OF AN APPLICATION WITHIN THIRTY DAYS OF THE ISSUANCE OF THE DENIAL, THE DENIAL BECOMES FINAL AND NO TAX CREDIT CERTIFICATE SHALL BE ISSUED.

(c) ADMINISTRATIVE HEARINGS MUST BE CONDUCTED IN ACCORDANCE WITH SECTION 24-4-105, C.R.S. AT THE DISCRETION OF THE DIRECTOR, HEARINGS MAY BE CONDUCTED BY AN AUTHORIZED REPRESENTATIVE OF THE DIRECTOR OR THE COMMISSION OR AN ADMINISTRATIVE LAW JUDGE FROM THE OFFICE OF ADMINISTRATIVE COURTS IN THE DEPARTMENT OF PERSONNEL. ALL HEARINGS WILL BE HELD IN THE COUNTY WHERE THE DIVISION IS LOCATED UNLESS THE DIRECTOR DESIGNATES OTHERWISE. THE DECISION OF THE DIRECTOR OR THE COMMISSION IS SUBJECT TO JUDICIAL REVIEW BY THE COURT OF APPEALS AND IS SUBJECT TO THE PROVISIONS OF SECTION 24-4-106, C.R.S.

(d) IN CONDUCTING SETTLEMENT DISCUSSIONS WITH A LANDOWNER, THE DIRECTOR AND THE COMMISSION SHALL HAVE THE AUTHORITY TO COMPROMISE ON ANY OF THE DEFICIENCIES IDENTIFIED IN THE APPLICATION AND SUPPORTING DOCUMENTATION, INCLUDING THE DOLLAR AMOUNT OF THE TAX CREDIT CERTIFICATE TO BE ISSUED. A RECORD OF ANY SUCH COMPROMISE AND THE REASONS THEREFORE SHALL BE PLACED ON FILE IN THE DIVISION.

(e) THE DIRECTOR SHALL HAVE THE AUTHORITY TO PROMULGATE RULES PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S., TO EFFECTUATE THE PURPOSES OF THIS SUBSECTION (12).

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

(a) THE TOTAL NUMBER OF TAX CREDIT CERTIFICATE APPLICATIONS

RECEIVED, APPROVED, AND DENIED IN ACCORDANCE WITH THIS SECTION, ALONG WITH AVERAGE PROCESSING TIMES;

(b) FOR APPLICATIONS APPROVED IN ACCORDANCE WITH THIS SECTION:

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

(II) THE TOTAL APPRAISED VALUE OF THE EASEMENTS;

(III) THE TOTAL DONATED VALUE OF THE EASEMENTS; AND

(IV) THE TOTAL DOLLAR AMOUNT OF TAX CREDIT CERTIFICATES ISSUED; AND

(c) THE DIVISION MAY INCLUDE ADDITIONAL EASEMENT-SPECIFIC INFORMATION IN THE PUBLIC REPORT THAT, NOTWITHSTANDING THE PROVISIONS OF THIS PART 7 OR ANY OTHER LAW TO THE CONTRARY, WOULD OTHERWISE BE PUBLICLY AVAILABLE.

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

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

(c) THE DIRECTOR OR THE COMMISSION MAY REQUEST THAT THE LANDOWNER SUBMIT ADDITIONAL INFORMATION OR DOCUMENTATION THAT

THE DIRECTOR OR THE COMMISSION DEEMS NECESSARY TO COMPLETE THE REVIEW AND ISSUE AN OPINION.

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

(15) THE DIVISION SHALL HAVE THE AUTHORITY TO PROMULGATE RULES TO EFFECTUATE THE PURPOSE, IMPLEMENTATION, AND ADMINISTRATION OF THE PROVISIONS OF THIS SECTION PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S. THIS AUTHORITY SHALL INCLUDE THE AUTHORITY TO DEFINE FURTHER IN RULE THE ADMINISTRATIVE PROCESSES AND REQUIREMENTS, INCLUDING APPLICATION PROCESSING AND REVIEW TIME FRAMES, FOR OBTAINING AND ISSUING AN OPTIONAL PRELIMINARY ADVISORY OPINION PURSUANT TO SUBSECTION (14) OF THIS SECTION.

(16) NOTWITHSTANDING THE PROVISIONS OF THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S., THE DIVISION, THE DIRECTOR, AND THE COMMISSION SHALL DENY THE RIGHT OF PUBLIC INSPECTION OF ANY DOCUMENTATION OR OTHER RECORD RELATED TO INFORMATION OBTAINED AS PART OF AN INDIVIDUAL LANDOWNER'S APPLICATION FOR A TAX CREDIT CERTIFICATE OR AN OPTIONAL PRELIMINARY ADVISORY OPINION PURSUANT TO THE REQUIREMENTS OF THIS SECTION, INCLUDING DOCUMENTATION OR OTHER RECORDS RELATED TO ADMINISTRATIVE HEARINGS AND SETTLEMENT DISCUSSIONS HELD PURSUANT TO SUBSECTION (12) OF THIS SECTION. THE DIVISION, THE DIRECTOR, AND THE COMMISSION SHALL HAVE THE AUTHORITY TO SHARE DOCUMENTATION OR OTHER RECORDS RELATED TO INFORMATION OBTAINED PURSUANT TO THIS SECTION WITH THE DEPARTMENT OF REVENUE.

(17) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO AFFECT ANY TAX CREDIT THAT IS CLAIMED OR USED PURSUANT TO SECTION 39-22-522, C.R.S., FOR CONSERVATION EASEMENT DONATIONS OCCURRING PRIOR TO JANUARY 1, 2014.

SECTION 9. In Colorado Revised Statutes, 39-22-522, **amend** (2),

(2.5), (3) introductory portion, (3.3), (3.5), (6), (10), and (11); and **add** (2.7) and (3.6) as follows:

39-22-522. Credit against tax - conservation easements.

(2) (a) For income tax years commencing on or after January 1, 2000, BUT PRIOR TO JANUARY 1, 2014, and, with regard to any credit over the amount of one hundred thousand dollars, for income tax years commencing on or after January 1, 2003, subject to the provisions of subsections (4) and (6) of this section, there shall be allowed a credit with respect to the income taxes imposed by this article to each taxpayer who donates during the taxable year all or part of the value of a perpetual conservation easement in gross created pursuant to article 30.5 of title 38, C.R.S., upon real property the taxpayer owns to a governmental entity or a charitable organization described in section 38-30.5-104 (2), C.R.S. The credit shall only be allowed for a donation that is eligible to qualify as a qualified conservation contribution pursuant to section 170 (h) of the internal revenue code, as amended, and any federal regulations promulgated in connection with such section. The amount of the credit shall not include the value of any portion of an easement on real property located in another state.

(b) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2014, AND, WITH REGARD TO ANY CREDIT OVER THE AMOUNT OF ONE HUNDRED THOUSAND DOLLARS, FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2003, SUBJECT TO THE PROVISIONS OF SUBSECTIONS (4) AND (6) OF THIS SECTION, THERE SHALL BE ALLOWED A CREDIT WITH RESPECT TO THE INCOME TAXES IMPOSED BY THIS ARTICLE TO EACH TAXPAYER WHO DONATES DURING THE TAXABLE YEAR ALL OR PART OF THE VALUE OF A PERPETUAL CONSERVATION EASEMENT IN GROSS CREATED PURSUANT TO ARTICLE 30.5 OF TITLE 38, C.R.S., UPON REAL PROPERTY THE TAXPAYER OWNS TO A GOVERNMENTAL ENTITY OR A CHARITABLE ORGANIZATION DESCRIBED IN SECTION 38-30.5-104 (2), C.R.S. THE CREDIT SHALL ONLY BE ALLOWED FOR A DONATION THAT MEETS THE REQUIREMENTS OF SECTION 170 OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, AND ANY FEDERAL REGULATIONS PROMULGATED IN ACCORDANCE WITH SUCH SECTION. THE AMOUNT OF THE CREDIT SHALL NOT INCLUDE THE VALUE OF ANY PORTION OF AN EASEMENT ON REAL PROPERTY LOCATED IN ANOTHER STATE.

(2.5) Notwithstanding any other provision of this section AND THE REQUIREMENTS OF SECTION 12-61-723, C.R.S., for income tax years

commencing during the 2011, 2012, and 2013 calendar years, a taxpayer conveying a conservation easement in 2011, 2012, or 2013 and claiming a credit pursuant to this section shall, in addition to any other requirements of this section AND THE REQUIREMENTS OF SECTION 12-61-723, C.R.S., submit a claim for the credit to the division of real estate in the department of regulatory agencies. The division shall issue a certificate for the claims received in the order submitted. After certificates have been issued for credits that exceed an aggregate of twenty-two million dollars for all taxpayers for income tax years commencing in each of the 2011 and 2012 calendar years and thirty-four million dollars for each income tax year commencing in the 2013 calendar year, any claims that exceed the amount allowed for a specified calendar year shall be placed on a wait list in the order submitted and a certificate shall be issued for use of the credit in 2012 or 2013. The division shall not issue credit certificates that exceed twenty-two million dollars for each income tax year commencing in the 2011 and 2012 calendar years and thirty-four million dollars for each income tax year commencing in the 2013 calendar year. No claim for a credit shall be allowed for any income tax year commencing during the 2011, 2012, or 2013 calendar years unless a certificate has been issued by the division. PROVIDED THAT ALL OTHER REQUIREMENTS UNDER SECTION 12-61-723, C.R.S, AND THIS SECTION ARE MET, the right to claim the credit shall be vested in the taxpayer at the time a credit certificate is issued. The division may promulgate rules in accordance with article 4 of title 24, C.R.S., for the issuance of certificates in accordance with this subsection (2.5).

(2.7) NOTWITHSTANDING ANY OTHER PROVISION, FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2014, NO CLAIM FOR A CREDIT SHALL BE ALLOWED UNLESS A TAX CREDIT CERTIFICATE IS ISSUED BY THE DIVISION OF REAL ESTATE IN ACCORDANCE WITH SECTIONS 12-61-722 AND 12-61-723, C.R.S., AND THE TAXPAYER FILES THE TAX CREDIT CERTIFICATE WITH THE INCOME TAX RETURN FILED WITH THE DEPARTMENT OF REVENUE.

(3) FOR CONSERVATION EASEMENTS DONATED PRIOR TO JANUARY 1, 2014, in order for any taxpayer to qualify for the credit provided for in subsection (2) of this section, the taxpayer shall submit the following in a form approved by the executive director to the department of revenue at the same time as the taxpayer files a return for the taxable year in which the credit is claimed:

(3.3) The appraisal for a conservation easement in gross DONATED PRIOR TO JANUARY 1, 2014, AND for which a credit is claimed shall be a qualified appraisal from a qualified appraiser, as those terms are defined in section 170 (f) (11) of the internal revenue code. The appraisal shall be in conformance with the uniform standards ~~for~~ OF professional appraisal practice promulgated by the appraisal standards board of the appraisal foundation and any other provision of law. The appraiser shall hold a valid license as a certified general appraiser in accordance with the provisions of part 7 of article 61 of title 12, C.R.S. The appraiser shall also meet any education and experience requirements established by the board of real estate appraisers in accordance with section 12-61-719 (7), C.R.S. If there is a final determination, other than by settlement of the taxpayer, that an appraisal submitted in connection with a claim for a credit pursuant to this section is a substantial or gross valuation misstatement as such misstatements are defined in section 1219 of the federal "Pension Protection Act of 2006", Pub.L. 109-280, the department shall submit a complaint regarding the misstatement to the board of real estate appraisers for disciplinary action in accordance with the provisions of part 7 of article 61 of title 12, C.R.S.

(3.5) (a) FOR CONSERVATION EASEMENTS DONATED PRIOR TO JANUARY 1, 2014:

(I) The executive director 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 and in consultation with the division of real estate and the conservation easement oversight commission created in section 12-61-721 (1), C.R.S., 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. If the executive director reasonably believes that the appraisal represents a gross valuation misstatement, receives notice of such a valuation misstatement from the division of real estate, or receives notice from the division of real estate that an enforcement action has been taken by the board of real estate appraisers

against the appraiser, the executive director shall have the authority to require the taxpayer to provide a second appraisal at the expense of the taxpayer. The second appraisal shall be conducted by a certified general appraiser in good standing and not affiliated with the first appraiser that meets qualifications established by the division of real estate. 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.

~~(b)~~ (II) In consultation with the division of real estate and the conservation easement oversight commission created in section 12-61-721 (1), C.R.S., the executive director shall develop and implement a separate process for the review by the department of revenue of gross conservation easements. The review process shall be consistent with the statutory obligations of the division and the commission and shall address gross conservation easements for which the department of revenue has been informed that an audit is being performed by the internal revenue service. The executive director shall share information used in the review of gross conservation easements with the division. Notwithstanding part 2 of article 72 of title 24, C.R.S., in order to protect the confidential financial information of a taxpayer, the division and the commission shall deny the right to inspect any information provided by the executive director in accordance with this paragraph ~~(b)~~. ~~On or before January 1, 2009, the executive director shall report to the general assembly on the status of the development and implementation of the process required by this paragraph~~ ~~(b)~~ SUBPARAGRAPH (II).

(b) FOR CONSERVATION EASEMENTS DONATED ON OR AFTER JANUARY 1, 2014, AND SUBJECT TO THE RESTRICTIONS OF SECTION 12-61-723 (4), C.R.S., THE EXECUTIVE DIRECTOR SHALL HAVE THE AUTHORITY, PURSUANT TO SUBSECTION (8) OF THIS SECTION, TO REQUIRE ADDITIONAL INFORMATION FROM THE TAXPAYER OR TRANSFEREE REGARDING 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, THE EXECUTIVE DIRECTOR SHALL HAVE THE AUTHORITY, FOR GOOD CAUSE SHOWN, TO REVIEW AND ACCEPT OR REJECT, IN WHOLE OR IN PART, 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, EXCEPT THOSE REQUIREMENTS FOR WHICH AUTHORITY IS GRANTED TO THE DIVISION OF REAL ESTATE, THE DIRECTOR OF THE DIVISION OF REAL ESTATE, OR THE CONSERVATION EASEMENT OVERSIGHT COMMISSION PURSUANT TO SECTION 12-61-723, C.R.S.

(3.6) FOR CONSERVATION EASEMENTS DONATED ON OR AFTER JANUARY 1, 2014, IN ORDER FOR ANY TAXPAYER TO QUALIFY FOR THE CREDIT PROVIDED FOR IN SUBSECTION (2) OF THIS SECTION, THE TAXPAYER MUST SUBMIT THE FOLLOWING IN A FORM, APPROVED BY THE EXECUTIVE DIRECTOR, TO THE DEPARTMENT OF REVENUE AT THE SAME TIME AS THE TAXPAYER FILES A RETURN FOR THE TAXABLE YEAR IN WHICH THE CREDIT IS CLAIMED:

(a) (I) A TAX CREDIT CERTIFICATE ISSUED UNDER SECTION 12-61-723, C.R.S.; AND

(II) THE INFORMATION REQUIRED IN SUBSECTIONS (3) (a), (3) (b), (3) (d), AND (3) (f) (II) OF THIS SECTION.

(b) NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW, THE EXECUTIVE DIRECTOR RETAINS THE AUTHORITY TO ADMINISTER ALL ISSUES RELATED TO THE CLAIM OR USE OF A TAX CREDIT FOR THE DONATION OF A CONSERVATION EASEMENT THAT ARE NOT GRANTED TO THE DIRECTOR OF THE DIVISION OF REAL ESTATE OR THE CONSERVATION EASEMENT OVERSIGHT COMMISSION UNDER SECTION 12-61-723, C.R.S.

(c) THE INFORMATION REQUIRED IN PARAGRAPH (f) OF SUBSECTION (3) OF THIS SECTION WILL NO LONGER BE REQUIRED FROM THE HOLDER OF THE CONSERVATION EASEMENT.

(6) (a) FOR CONSERVATION EASEMENTS DONATED PRIOR TO JANUARY 1, 2014, a taxpayer may claim only one tax credit under this section per income tax year; except that a transferee of a tax credit under subsection (7) of this section may claim an unlimited number of credits. A taxpayer who has carried forward or elected to receive a refund of part of the tax credit in accordance with subsection (5) of this section shall not claim an additional tax credit under this section for any income tax year in which the taxpayer applies the amount carried forward against income tax due or receives a refund. A taxpayer who has transferred a credit to a transferee pursuant to subsection (7) of this section shall not claim an

additional tax credit under this section for any income tax year in which the transferee uses such transferred credit.

(b) FOR CONSERVATION EASEMENTS DONATED ON OR AFTER JANUARY 1, 2014, A TAXPAYER MAY CLAIM ONLY ONE TAX CREDIT UNDER THIS SECTION PER INCOME TAX YEAR; EXCEPT THAT A TRANSFEREE OF A TAX CREDIT UNDER SUBSECTION (7) OF THIS SECTION MAY CLAIM AN UNLIMITED NUMBER OF CREDITS.

(10) On or before July 1, 2008, the department of revenue shall create a report, which shall be made available to the public, on the credits claimed in the previous year in accordance with this section. For each credit claimed for a conservation easement in gross, the report shall summarize by county where the easement is located, the acres under easement, the appraised value of the easement, the donated value of the easement, and the name of any holders of the easement; except that the department shall combine such information for multiple counties where necessary to ensure that the information for no fewer than three easements is summarized for any county or combination of counties in the report. The report shall be updated annually to reflect the same information for any additional credits that have been granted since the previous report. THIS REPORT SHALL NOT BE REQUIRED FOR CONSERVATION EASEMENTS DONATED ON OR AFTER JANUARY 1, 2014.

(11) On or before December 31, 2007, the department of revenue shall create a report, which shall be made available to the public, with as much of the information specified in paragraph (c) of subsection (3) of this section as is available to the department, summarized by county, for each tax credit claimed for a conservation easement in gross for tax years commencing on or after January 1, 2000. THIS REPORT SHALL NOT BE REQUIRED FOR CONSERVATION EASEMENTS DONATED ON OR AFTER JANUARY 1, 2014.

SECTION 10. In Colorado Revised Statutes, 39-22-522.5, **amend** (5) (e) and (12) as follows:

39-22-522.5. Conservation easement tax credits - dispute resolution - legislative declaration. (5) In order to expedite the equitable resolution of requests for an administrative hearing regarding any conservation easement tax credit, avoid inconsistent determinations, and

allow the executive director or the executive director's designee to consider the full scope of applicable issues of law and fact, the executive director or the executive director's designee shall have discretion to issue orders as set forth in paragraphs (a) to (e) of this subsection (5) as follows:

(e) If a tax matters representative has not provided any document related to the credit that was required to be provided as part of the taxpayer's return, including the return itself, or, if requested by the department FOR CONSERVATION EASEMENTS DONATED PRIOR TO JANUARY 1, 2014, a copy of the complete appraisal obtained at the time of donation, the department may send a written request to the taxpayer for such document. Failure to provide the requested documents within sixty days of any such request shall constitute grounds for the issuance of a final determination denying the credit.

(12) (a) On or before July 1, 2011, and on a quarterly basis thereafter, the executive director shall provide a report to the joint budget committee and the finance committees of the general assembly describing:

(a) (I) The number of tax credits claimed pursuant to section 39-22-522 for which the executive director mailed a notice of deficiency, notice of rejection of refund claim, or notice of disallowance pursuant to section 39-21-103;

(b) (II) The number of such cases sent to the conservation easement oversight commission for review pursuant to section 12-61-721, C.R.S.;

(c) (III) The number of such cases returned to the executive director with the advice of the conservation easement oversight commission created in section 12-61-721 (1), C.R.S., and the action, if any, taken by the department of revenue on the cases returned by the commission;

(d) (IV) The number and progress of any cases that are in a mediation process and the status of such mediation;

(e) (V) The number of cases referred to the attorney general's office for resolution;

(f) (VI) The number of cases finally resolved by the department of revenue;

~~(g)~~ (VII) The amount of deficient taxes, interest, and penalties determined to be owed or waived by the department of revenue in administering the resolution of cases;

~~(h)~~ (VIII) The number and total amount of credits that were originally contested but subsequently allowed to be claimed in full; and

~~(i)~~ (IX) The amount of moneys expended by the department of revenue in administering the resolution of cases.

(b) THE REPORTING REQUIREMENTS OF SUBPARAGRAPHS (II) AND (III) OF PARAGRAPH (a) OF THIS SUBSECTION (12) SHALL NOT APPLY FOR CONSERVATION EASEMENTS DONATED ON OR AFTER JANUARY 1, 2014.

SECTION 11. In Colorado Revised Statutes, **repeal** 24-33-112.

SECTION 12. Appropriation - loan authorized. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the conservation easement tax credit certificate review fund created in section 12-61-723 (6), Colorado Revised Statutes, not otherwise appropriated, to the department of regulatory agencies, for the fiscal year beginning July 1, 2013, the sum of \$275,046 and 3.5 FTE, or so much thereof as may be necessary, to be allocated for the implementation of this act as follows:

(a) \$100,735 and 3.5 FTE to the division of real estate for personal services;

(b) \$3,325 to the division of real estate for operating expenses;

(c) \$16,461 to the division of real estate for capital expenses;

(d) \$10,000 to the division of real estate for consulting;

(e) \$75,000 to the division of real estate for computer programming;
and

(f) \$69,525 to the executive director's office and administrative services for the purchase of legal services.

(2) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 2013, the sum of \$69,525 and 0.5 FTE, or so much thereof as may be necessary, for the provision of legal services for the department of regulatory agencies related to the implementation of this act. Said sum is from reappropriated funds received from the department of regulatory agencies out of the appropriation made in paragraph (f) of subsection (1) of this section.

(3) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of revenue, for the fiscal year beginning July 1, 2013, the sum of \$48,000, or so much thereof as may be necessary, for allocation to the taxation business group for computer programming related to the implementation of this act.

(4) For the purpose of implementing this act prior to sufficient moneys becoming available in the conservation easement tax credit certificate review fund, the department of regulatory agencies may borrow moneys from the general fund during the fiscal year beginning July 1, 2013, in an amount up to the amount of the appropriation in subsection (1) of this section, and the state treasurer shall transfer and credit said sum to the conservation easement tax credit certificate review fund. As moneys become available in the conservation easement tax credit certificate review fund, the state treasurer shall transfer to the general fund an amount equal to the borrowed moneys, without interest.

SECTION 13. Act subject to petition - effective date - applicability. (1) Except as provided in subsection (2) of this section, section 2 of this act and section 12-61-721 (1) (d) (V) as contained in section 5 of this act take effect January 1, 2014, and the remainder of this act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2014 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) (a) Section 6 of this act takes effect only if House Bill 13-1183 does not become law.

(b) Section 7 of this act takes effect only if House Bill 13-1183 becomes law and takes effect either upon the effective date of this act or House Bill 13-1183, whichever is later.

John P. Morse
PRESIDENT OF
THE SENATE

Mark Ferrandino
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO