

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 13-0211.01 Gregg Fraser x4325

HOUSE BILL 13-1120

HOUSE SPONSORSHIP

Dore,

SENATE SPONSORSHIP

(None),

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE ELIMINATION OF A PERPETUAL CONSERVATION
102 EASEMENT IN GROSS THAT HAS BEEN DISPUTED FOR PURPOSES
103 OF CLAIMING A CREDIT AGAINST STATE INCOME TAXES.

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>.)

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 allows the easement to be eliminated if the easement is determined to be invalid for

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.

purposes of claiming the tax credit or if the amount of the tax credit is reduced. The donor is required to repay any taxes, interest, and penalties owed in connection with claiming the credit, and, in the case of a credit that was reduced, the donor is required to repay a portion of any amount provided as consideration for the easement.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 38-30.5-107
3 as follows:

4 **38-30.5-107. Release - termination.** (1) Conservation easements
5 in gross may, in whole or in part, be released, terminated, extinguished,
6 or abandoned by merger with the underlying fee interest in the servient
7 land or water rights or in any other manner in which easements may be
8 lawfully terminated, released, extinguished, or abandoned.

9 (2) A CONSERVATION EASEMENT IN GROSS SHALL BE RELEASED,
10 TERMINATED, OR EXTINGUISHED IF A FINAL DETERMINATION BY THE
11 DEPARTMENT OF REVENUE, A FINAL JUDGEMENT OF A COURT OF
12 COMPETENT JURISDICTION, OR A VOLUNTARY SETTLEMENT AGREEMENT TO
13 WHICH THE DONOR OF THE EASEMENT IS A PARTY DETERMINES THAT:

14 (a) THE EASEMENT IS INVALID OR THE DONATION OF THE
15 EASEMENT IS OTHERWISE NOT ELIGIBLE TO QUALIFY AS A QUALIFIED
16 CONSERVATION CONTRIBUTION FOR THE PURPOSES OF CLAIMING A STATE
17 INCOME TAX CREDIT PURSUANT TO SECTION 39-22-522.5, C.R.S.; OR

18 (b) THE AMOUNT OF A CREDIT ORIGINALLY CLAIMED BY A
19 TAXPAYER PURSUANT TO SECTION 39-22-522.5, C.R.S., WAS DISPUTED BY
20 THE DEPARTMENT OF REVENUE AND SUBSEQUENTLY REDUCED.

21 (3) THE RELEASE, TERMINATION, OR EXTINGUISHMENT OF AN
22 EASEMENT PURSUANT TO SUBSECTION (2) OF THIS SECTION IS
23 CONDITIONED UPON THE REPAYMENT OF ANY AMOUNTS OF TAXES,

1 INTEREST, AND PENALTIES DUE AND OWING THE STATE FROM THE DONOR
2 OF THE EASEMENT AS A RESULT OF THE DENIAL OR REDUCTION IN THE
3 AMOUNT OF THE TAX CREDIT CLAIMED. THE RELEASE, TERMINATION, OR
4 EXTINGUISHMENT OF AN EASEMENT PURSUANT TO PARAGRAPH (b) OF
5 SUBSECTION (2) OF THIS SECTION IS FURTHER CONDITIONED UPON THE
6 REPAYMENT OF THE AMOUNT OF ANY CONSIDERATION ORIGINALLY PAID
7 BY OR ON BEHALF OF THE GRANTEE FOR THE EASEMENT, REDUCED IN THE
8 SAME PROPORTION THAT THE AMOUNT OF THE CREDIT ORIGINALLY
9 CLAIMED BY THE TAXPAYER PURSUANT TO SECTION 39-22-522.5, C.R.S.,
10 WAS REDUCED.

11 **SECTION 2. Act subject to petition - effective date -**
12 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
13 the expiration of the ninety-day period after final adjournment of the
14 general assembly (August 7, 2013, if adjournment sine die is on May 8,
15 2013); except that, if a referendum petition is filed pursuant to section 1
16 (3) of article V of the state constitution against this act or an item, section,
17 or part of this act within such period, then the act, item, section, or part
18 will not take effect unless approved by the people at the general election
19 to be held in November 2014 and, in such case, will take effect on the
20 date of the official declaration of the vote thereon by the governor.

21 (2) This act applies to conservation easements granted prior to, on,
22 or after the applicable effective date of this act.