

Second Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO

**ENGROSSED**

*This Version Includes All Amendments Adopted  
on Second Reading in the House of Introduction*

LLS NO. 10-0743.01 Gregg Fraser

**HOUSE BILL 10-1197**

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**HOUSE SPONSORSHIP**

**Ferrandino,**

**SENATE SPONSORSHIP**

**Heath,**

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**House Committees**

Finance  
Appropriations

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING A DECREASE IN THE MAXIMUM AMOUNT OF A STATE**  
102 **INCOME TAX CREDIT THAT MAY BE CLAIMED FOR THE DONATION**  
103 **OF A CONSERVATION EASEMENT IN GROSS.**

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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/billsummaries>.)*

Taxpayers are currently allowed to claim a state income tax credit for donating a conservation easement. The amount of the credit is equal to 50% of the fair market value of the easement, with a cap of \$375,000. The bill reduces the amount of the cap to \$135,000 for donations made on

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.*

HOUSE  
Amended 2nd Reading  
February 10, 2010

or after January 1, 2011.

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

2 **SECTION 1.** 39-1-102 (1.6) (a) (III), Colorado Revised Statutes,  
3 is amended to read:

4 **39-1-102. Definitions.** As used in articles 1 to 13 of this title,  
5 unless the context otherwise requires:

6 (1.6) (a) "Agricultural land", whether used by the owner of the  
7 land or a lessee, means one of the following:

8 (III) A parcel of land that consists of at least eighty acres, or of  
9 less than eighty acres if such parcel does not contain any residential  
10 improvements, and that is subject to a perpetual conservation easement,  
11 if such land was classified by the assessor as agricultural land under  
12 subparagraph (I) or (II) of this paragraph (a) at the time such easement  
13 was granted, if the grant of the easement was to a qualified organization,  
14 if the easement was granted exclusively for conservation purposes, and  
15 if all current and contemplated future uses of the land are described in the  
16 conservation easement. "Agricultural land" under this subparagraph (III)  
17 does not include any portion of such land that is actually used for  
18 nonagricultural commercial or NONAGRICULTURAL residential purposes.

19 **SECTION 2.** 39-1-103 (5) (a), Colorado Revised Statutes, is  
20 amended to read:

21 **39-1-103. Actual value determined - when.** (5) (a) All real and  
22 personal property shall be appraised and the actual value thereof for  
23 property tax purposes determined by the assessor of the county wherein  
24 such property is located. The actual value of such property, other than  
25 agricultural lands exclusive of building improvements thereon and other

1 than residential real property and other than producing mines and lands  
2 or leaseholds producing oil or gas, shall be that value determined by  
3 appropriate consideration of the cost approach, the market approach, and  
4 the income approach to appraisal. The assessor shall consider and  
5 document all elements of such approaches that are applicable prior to a  
6 determination of actual value. Despite any orders of the state board of  
7 equalization, no assessor shall arbitrarily increase the valuations for  
8 assessment of all parcels represented within the abstract of a county or  
9 within a class or subclass of parcels on that abstract by a common  
10 multiple in response to the order of said board. If an assessor is required,  
11 pursuant to the order of said board, to increase or decrease valuations for  
12 assessment, such changes shall be made only upon individual valuations  
13 for assessment of each and every parcel, using each of the approaches to  
14 appraisal specified in this paragraph (a), if applicable. The actual value  
15 of agricultural lands, exclusive of building improvements thereon, shall  
16 be determined by consideration of the earning or productive capacity of  
17 such lands during a reasonable period of time, capitalized at a rate of  
18 thirteen percent. Land that is valued as agricultural and that becomes  
19 subject to a perpetual conservation easement shall continue to be valued  
20 as agricultural notwithstanding its dedication for conservation purposes;  
21 except that, if any portion of such land is actually used for nonagricultural  
22 commercial or NONAGRICULTURAL residential purposes, that portion shall  
23 be valued according to such use. NOTHING IN THIS SUBSECTION (5) SHALL  
24 BE CONSTRUED TO REQUIRE OR PERMIT THE RECLASSIFICATION OF  
25 AGRICULTURAL LAND OR IMPROVEMENTS, INCLUDING RESIDENTIAL  
26 PROPERTY, DUE SOLELY TO SUBJECTING THE LAND TO A PERPETUAL  
27 CONSERVATION EASEMENT. The actual value of residential real property

1 shall be determined solely by consideration of the market approach to  
2 appraisal. A gross rent multiplier may be considered as a unit of  
3 comparison within the market approach to appraisal. The valuation for  
4 assessment of producing mines and of lands or leaseholds producing oil  
5 or gas shall be determined pursuant to articles 6 and 7 of this title.

6 **SECTION 3.** Part 1 of article 21 of title 39, Colorado Revised  
7 Statutes, is amended BY THE ADDITION OF A NEW SECTION to  
8 read:

9 **39-21-122. Revenue impact of 2010 tax legislation - tracking**  
10 **by department.** THE DEPARTMENT OF REVENUE SHALL ACCOUNT FOR ALL  
11 REVENUE ATTRIBUTABLE TO THE ENACTMENT OF HOUSE BILL 10-1197,  
12 ENACTED IN 2010, AND SHALL, TO THE EXTENT SUCH INFORMATION IS  
13 AVAILABLE, MAKE QUARTERLY REPORTS TO THE GENERAL ASSEMBLY  
14 REGARDING THE QUARTERLY AND CUMULATIVE NET REVENUE GAIN TO THE  
15 STATE RESULTING FROM THE ENACTMENT OF SAID BILL.

16 **SECTION 4.** 39-22-522, Colorado Revised Statutes, is amended  
17 BY THE ADDITION OF A NEW SUBSECTION to read:

18 **39-22-522. Credit against tax - conservation easements.**  
19 (2.5) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, FOR  
20 INCOME TAX YEARS COMMENCING DURING THE 2011, 2012, AND 2013  
21 CALENDAR YEARS, A TAXPAYER CONVEYING A CONSERVATION EASEMENT  
22 IN 2011, 2012, OR 2013 AND CLAIMING A CREDIT PURSUANT TO THIS  
23 SECTION SHALL, IN ADDITION TO ANY OTHER REQUIREMENTS OF THIS  
24 SECTION, SUBMIT A CLAIM FOR THE CREDIT TO THE DIVISION OF REAL  
25 ESTATE IN THE DEPARTMENT OF REGULATORY AGENCIES. THE DIVISION  
26 SHALL ISSUE A CERTIFICATE FOR THE CLAIMS RECEIVED IN THE ORDER  
27 SUBMITTED. AFTER CERTIFICATES HAVE BEEN ISSUED FOR CREDITS THAT

1 EXCEED AN AGGREGATE OF TWENTY-SIX MILLION DOLLARS FOR ALL  
2 TAXPAYERS FOR INCOME TAX YEARS COMMENCING IN EACH OF THE 2011,  
3 2012, AND 2013 CALENDAR YEARS, ANY CLAIMS THAT EXCEED THE  
4 AMOUNT ALLOWED FOR A SPECIFIED CALENDAR YEAR SHALL BE PLACED  
5 ON A WAIT LIST IN THE ORDER SUBMITTED AND A CERTIFICATE SHALL BE  
6 ISSUED FOR USE OF THE CREDIT IN 2012 OR 2013. THE DIVISION SHALL NOT  
7 ISSUE CREDIT CERTIFICATES THAT EXCEED TWENTY-SIX MILLION DOLLARS  
8 FOR EACH INCOME TAX YEAR COMMENCING IN THE 2011, 2012, AND 2013  
9 CALENDAR YEARS. NO CLAIM FOR A CREDIT SHALL BE ALLOWED FOR ANY  
10 INCOME TAX YEAR COMMENCING DURING THE 2011, 2012, OR 2013  
11 CALENDAR YEARS UNLESS A CERTIFICATE HAS BEEN ISSUED BY THE  
12 DIVISION. THE RIGHT TO CLAIM THE CREDIT SHALL BE VESTED IN THE  
13 TAXPAYER AT THE TIME A CREDIT CERTIFICATE IS ISSUED. THE DIVISION  
14 MAY PROMULGATE RULES IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24,  
15 C.R.S., FOR THE ISSUANCE OF CERTIFICATES IN ACCORDANCE WITH THIS  
16 SUBSECTION (2.5).

17 **SECTION 5.** Part 7 of article 61 of title 12, Colorado Revised  
18 Statutes, is amended BY THE ADDITION OF A NEW SECTION to  
19 read:

20 **12-61-722. Conservation easement tax credit certificates.**

21 (1) THE DIVISION SHALL RECEIVE CLAIMS FROM AND ISSUE CERTIFICATES  
22 TO CERTIFIED CONSERVATION EASEMENT HOLDERS FOR INCOME TAX  
23 CREDITS FOR CONSERVATION EASEMENTS DONATED DURING THE 2011,  
24 2012, AND 2013 CALENDAR YEARS IN ACCORDANCE WITH THE PROVISIONS  
25 OF SECTION 39-22-522 (2.5), C.R.S. NOTHING IN THIS SECTION SHALL BE  
26 CONSTRUED TO RESTRICT OR LIMIT THE AUTHORITY OF THE DIVISION TO  
27 ENFORCE THE PROVISIONS OF THIS PART 7. THE DIVISION MAY

1 PROMULGATE RULES IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S.,  
2 FOR THE ISSUANCE OF THE CERTIFICATES. IN PROMULGATING ANY SUCH  
3 RULES, THE DIVISION MAY INCLUDE BUT SHALL NOT BE LIMITED TO  
4 PROVISIONS GOVERNING THE FOLLOWING:

5 (a) THE REVIEW OF THE TAX CREDIT CERTIFICATE;

6 (b) THE ADMINISTRATION AND FINANCING OF THE CERTIFICATION  
7 PROCESS;

8 (c) THE NOTIFICATION TO THE PUBLIC REGARDING THE AGGREGATE  
9 AMOUNT OF CERTIFICATES THAT HAVE BEEN ISSUED AND THAT ARE ON THE  
10 WAIT LIST;

11 (d) THE NOTIFICATION TO THE TAXPAYER, THE ENTITY TO WHICH  
12 THE EASEMENT WAS GRANTED, AND THE DEPARTMENT OF REVENUE  
13 REGARDING THE CERTIFICATES ISSUED; AND

14 (e) ANY OTHER MATTERS RELATED TO ADMINISTERING THE  
15 PROVISIONS OF SECTION 39-22-522 (2.5), C.R.S.

16 **SECTION 6. Act subject to petition - effective date.** This act  
17 shall take effect at 12:01 a.m. on the day following the expiration of the  
18 ninety-day period after final adjournment of the general assembly (August  
19 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a  
20 referendum petition is filed pursuant to section 1 (3) of article V of the  
21 state constitution against this act or an item, section, or part of this act  
22 within such period, then the act, item, section, or part shall not take effect  
23 unless approved by the people at the general election to be held in  
24 November 2010 and shall take effect on the date of the official  
25 declaration of the vote thereon by the governor.