

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0186.01 Gregg Fraser x4325

HOUSE BILL 16-1174

---

HOUSE SPONSORSHIP

Becker J.,

SENATE SPONSORSHIP

(None),

---

House Committees

State, Veterans, & Military Affairs

Senate Committees

---

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.

---

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.

---

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-22-522, **add** (3.5)

3 (c) as follows:

4 **39-22-522. Credit against tax - conservation easements.**

5 (3.5)(c) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, FOR  
6 ANY CONSERVATION EASEMENT IN GROSS DONATED PRIOR TO JANUARY 1,  
7 2008, FOR WHICH A CREDIT IS CLAIMED AND A FINAL SETTLEMENT HAS NOT  
8 BEEN REACHED WITH A TAXPAYER ON OR BEFORE JULY 1, 2016, THE  
9 CREDIT IS ALLOWED AND THE EXECUTIVE DIRECTOR SHALL NEITHER  
10 CONTEST NOR REQUIRE ADDITIONAL INFORMATION REGARDING THE  
11 APPRAISED VALUE OF THE EASEMENT, THE AMOUNT OF THE CREDIT, OR THE  
12 VALIDITY OF THE CREDIT ALLOWED PURSUANT TO SUBSECTION (2) OF THIS  
13 SECTION UNLESS:

14 (I) PRIOR TO JULY 1, 2016, THE EXECUTIVE DIRECTOR HAS  
15 PRODUCED CLEAR AND CONVINCING EVIDENCE OF AN OVERVALUATION OF  
16 THE EASEMENT, WHICH EVIDENCE HAS BEEN CONFIRMED IN WRITING BY  
17 THE ATTORNEY GENERAL AND, PRIOR TO SUCH DATE, A FORMAL REJECTION

1 TOGETHER WITH THE WRITTEN CONFIRMATION OF THE ATTORNEY GENERAL  
2 AND COPIES OF THE EVIDENCE IN POSSESSION OF THE EXECUTIVE DIRECTOR  
3 HAS BEEN MAILED TO THE DONOR AT THE DONOR'S LAST-KNOWN ADDRESS;  
4 OR

5 (II) THE VALUATION IS SUPPORTED SOLELY BY AN APPRAISAL FROM  
6 AN APPRAISER CONVICTED OF FRAUD OR ANOTHER CRIMINAL ACT OF  
7 MISREPRESENTATION PRIOR TO JULY 1, 2016, IN CONNECTION WITH THE  
8 PREPARATION OF THE APPRAISAL.

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

11 **38-30.5-107. Release - termination.** (1) Conservation easements  
12 in gross may, in whole or in part, be released, terminated, extinguished,  
13 or abandoned by merger with the underlying fee interest in the servient  
14 land or water rights or in any other manner in which easements may be  
15 lawfully terminated, released, extinguished, or abandoned.

16 (2) IN ADDITION TO THE METHODS SET FORTH IN SUBSECTION (1)  
17 OF THIS SECTION, A COURT EXERCISING ITS EQUITABLE JURISDICTION MAY  
18 TERMINATE A CONSERVATION EASEMENT IN GROSS CREATED FOR THE  
19 PURPOSE OF CLAIMING A STATE INCOME TAX CREDIT PURSUANT TO  
20 SECTION 39-22-522, C.R.S., IF:

21 (a) THE STATE HAS REJECTED THE CLAIM FOR THE CREDIT;

22 (b) THE EASEMENT HAS BEEN APPRAISED TO HAVE NO VALUE OR  
23 NO MORE THAN A NOMINAL DOLLAR VALUE; AND

24 (c) THE HOLDER OF THE EASEMENT EITHER PROVIDED NO  
25 COMPENSATION FOR THE EASEMENT OR HAS BEEN REIMBURSED IN WHOLE  
26 FOR ANY COMPENSATION PROVIDED.

27 **SECTION 3. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.