

## CHAPTER 420

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**TAXATION**

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## SENATE BILL 22-208

BY SENATOR(S) Winter and Simpson, Donovan, Jaquez Lewis, Woodward;  
also REPRESENTATIVE(S) Lynch and Roberts, Amabile, Bennett, Bird, Esgar, Hooton, Lindsay, McCluskie, McKean,  
McLachlan, Michaelson Jenet, Mullica, Pelton, Pico, Ricks, Snyder, Soper, Titone, Valdez D., Weissman, Young.

**AN ACT****CONCERNING JUST COMPENSATION FOR THE CONDEMNATION OF PROPERTY ENCUMBERED BY A  
CONSERVATION EASEMENT IN GROSS.**

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

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

**38-30.5-107. Release - termination.** If it is determined that conditions on or surrounding a property encumbered by a conservation easement in gross change so that it becomes impossible to fulfill its conservation purposes that are defined in the deed of conservation easement, a court with jurisdiction may, at the joint request of both the owner of property encumbered by a conservation easement and the holder of the easement, terminate, release, extinguish, or abandon the conservation easement. If condemnation by a public authority of a part of a property or of the entire property encumbered by a conservation easement in gross renders it impossible to fulfill any of the conservation purposes outlined in the deed of conservation easement, the conservation easement may be terminated, released, SUBORDINATED, extinguished, or abandoned IN WHOLE OR IN PART through condemnation proceedings. A conservation easement in gross for which a Colorado state income tax credit has been allowed may not in whole or in part be released, terminated, extinguished, or abandoned by merger with the underlying fee interest in the servient land or water rights. Any release, termination, or extinguishment of a conservation easement under this section must be recorded in the records of the office of the clerk and recorder in the county where the conservation easement is located.

**SECTION 2.** In Colorado Revised Statutes, **add** 38-30.5-107.5 as follows:

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

**38-30.5-107.5. Condemnation of property encumbered by a conservation easement in gross - determination of just compensation.** IF PROPERTY ENCUMBERED BY A CONSERVATION EASEMENT IN GROSS CREATED IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 38-30.5-104 IS CONDEMNED IN ACCORDANCE WITH THE REQUIREMENTS OF ARTICLES 1 TO 7 OF THIS TITLE 38, AND, AS A RESULT OF THE CONDEMNATION, THE CONDEMNING AUTHORITY IS ACQUIRING SUCH PROPERTY FREE AND CLEAR OF THE CONSERVATION EASEMENT INTEREST OR SUBORDINATING THE DEED OF CONSERVATION EASEMENT TO SUCH ACQUIRED PROPERTY INTEREST, JUST COMPENSATION MUST BE DETERMINED BASED ON THE VALUE OF THE PROPERTY AS IF UNENCUMBERED BY THE CONSERVATION EASEMENT IN GROSS AND MUST BE ALLOCATED BETWEEN THE FEE OWNER AND THE HOLDER OF THE CONSERVATION EASEMENT BASED UPON THE VALUE OF THEIR RESPECTIVE INTERESTS IN THE PROPERTY. THIS SECTION DOES NOT AFFECT OR LIMIT DAMAGES TO WHICH A HOLDER OF A CONSERVATION EASEMENT IN GROSS IS ENTITLED UNDER SECTION 38-30.5-108 (3).

**SECTION 3. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: June 7, 2022