

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Finance.

HB21-1233 be amended as follows:

1 Amend printed bill, page 3, strike lines 8 through 18 and substitute:

2 "SECTION 3. In Colorado Revised Statutes, 39-21-113, **add** (29)
3 as follows:

4 **39-21-113. Reports and returns - rule.** (29) NOTWITHSTANDING
5 THE PROVISIONS OF THIS SECTION:

6 (a) THE EXECUTIVE DIRECTOR MAY PROVIDE SUCH DETAILED
7 TAXPAYER INFORMATION PERTINENT TO A CLAIM FOR AN INCOME TAX
8 CREDIT FOR THE DONATION OF A PERPETUAL CONSERVATION EASEMENT IN
9 GROSS PURSUANT TO SECTION 39-22-522 TO TAXPAYERS, INCLUDING
10 OWNERS AND TRANSFEREES, WITH CASES INVOLVING COMMON OR
11 RELATED ISSUES OF FACT OR LAW. WITH THE EXCEPTION OF TAXPAYER
12 CONTACT INFORMATION, ANY INFORMATION PROVIDED PURSUANT TO THIS
13 SUBSECTION (29) MUST REMAIN CONFIDENTIAL, AND ALL PERSONS ARE
14 SUBJECT TO THE LIMITATIONS SPECIFIED IN SUBSECTION (4) OF THIS
15 SECTION AND THE PENALTIES SPECIFIED IN SUBSECTION (6) OF THIS
16 SECTION.

17 (b) THE EXECUTIVE DIRECTOR MAY REQUIRE THAT SUCH DETAILED
18 TAXPAYER INFORMATION PERTINENT TO A CLAIM FOR AN INCOME TAX
19 CREDIT FOR THE DONATION OF A PERPETUAL CONSERVATION EASEMENT
20 PURSUANT TO SECTION 39-22-522 AND ANY DOCUMENTATION IN SUPPORT
21 OF THE CREDIT CLAIMED BE GIVEN TO THE DIVISION OF CONSERVATION AS
22 THE EXECUTIVE DIRECTOR DETERMINES IS NECESSARY IN THE
23 PERFORMANCE OF THE DEPARTMENT'S FUNCTIONS RELATING TO THE
24 CREDIT. IN RESOLVING DISPUTES REGARDING THE CREDIT, THE EXECUTIVE
25 DIRECTOR MAY DISCLOSE SUCH DETAILED TAXPAYER INFORMATION AND
26 CONSULT WITH THE DIVISION OF CONSERVATION. NOTWITHSTANDING PART
27 2 OF ARTICLE 72 OF TITLE 24, IN ORDER TO PROTECT THE CONFIDENTIAL
28 FINANCIAL INFORMATION OF A TAXPAYER, THE EXECUTIVE DIRECTOR
29 SHALL DENY THE RIGHT TO INSPECT ANY INFORMATION OR
30 DOCUMENTATION REQUIRED IN ACCORDANCE WITH THIS SUBSECTION
31 (29).".

32 Page 3, line 20, after "(3.5)(b)," insert "(3.6)," and after "(4)(b)," insert
33 "(5)(b)(III).".

34 Page 3, line 21, after "(4)(a)(II.7)" insert "and (7.5)".

35 Page 3, line 22, strike "**easements.**" and substitute "**easements -**
36 **definition.**".

1 Page 5, line 4, strike "2022," and substitute "2021,".

2 Page 5, strike lines 14 through 27 and substitute:

3 "(II) FOR TAX CREDIT CERTIFICATES ISSUED BY THE DIVISION FOR
4 USE ON OR AFTER JANUARY 1, 2021, THE TRANSFEROR AND TRANSFEREE
5 OF THE TAX CREDIT SHALL JOINTLY FILE A COPY OF THE WRITTEN
6 TRANSFER AGREEMENT WITH THE DIVISION OF CONSERVATION WITHIN
7 THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (3.5)(b)(II)
8 OR THE DATE OF THE TRANSFER, WHICHEVER IS LATER. IF THE CREDIT
9 BEING TRANSFERRED WAS ISSUED FOR A YEAR OTHER THAN THE YEAR IN
10 WHICH IT IS TRANSFERRED, THE TRANSFEROR SHALL FURTHER SUBMIT A
11 COPY OF THE TRANSFEROR'S DR1305 FORM FOR EACH YEAR FROM THE
12 YEAR FOR WHICH THE CREDIT WAS ISSUED THROUGH THE MOST RECENT
13 YEAR FOR WHICH TAXES WERE DUE. THE DIVISION SHALL ISSUE A
14 CERTIFICATE TO THE TRANSFEREE IN THE AMOUNT OF THE TAX CREDIT
15 TRANSFERRED AND, IF ANY AMOUNT IS RETAINED BY THE TRANSFEROR,
16 ISSUE A CERTIFICATE TO THE TRANSFEROR IN THE AMOUNT RETAINED. THE
17 DIVISION SHALL DEVELOP A SYSTEM TO TRACK THE TRANSFERS OF TAX
18 CREDITS AND TO CERTIFY THE OWNERSHIP OF TAX CREDITS. A
19 CERTIFICATION BY THE DIVISION OF THE OWNERSHIP AND AMOUNT OF TAX
20 CREDITS SHALL BE RELIED UPON BY THE DEPARTMENT OF REVENUE AND
21 THE TRANSFEREE AS BEING ACCURATE, AND NEITHER THE DIVISION NOR
22 THE DEPARTMENT OF REVENUE SHALL ADJUST THE AMOUNT OF TAX
23 CREDITS AS TO THE TRANSFEREE; EXCEPT THAT THE DIVISION AND
24 DEPARTMENT RETAIN ANY REMEDIES IT MAY HAVE AGAINST THE
25 LANDOWNER. THE DIVISION MAY PROMULGATE RULES TO PERMIT
26 VERIFICATION OF THE OWNERSHIP AND AMOUNT OF THE TAX CREDITS;
27 EXCEPT THAT ANY RULES PROMULGATED SHALL NOT UNDULY RESTRICT OR
28 HINDER THE TRANSFER OF THE TAX CREDITS."

29 Page 6, strike lines 1 through 11 and substitute:

30 "(3.6) (a) For conservation easements donated on or after January
31 1, 2014, in order for any taxpayer to ~~qualify for~~ CLAIM the credit provided
32 for in subsection (2) of this section, the taxpayer must submit the
33 following in a form, approved by the executive director, to the department
34 of revenue at the same time as the taxpayer files a return for the taxable
35 year in which the credit is claimed:

36 (a) (I) A tax credit certificate issued under section 12-15-106; and
37 (II) The information required in ~~subsections (3)(a), (3)(b), (3)(d),~~
38 ~~and (3)(f)(H)~~ SUBSECTIONS (3)(a) AND (3)(b) of this section.

- 1 (b) Notwithstanding any other provisions of law, the executive
2 director retains the authority to administer all issues related to the claim
3 or use of a tax credit for the donation of a conservation easement that are
4 not granted to the director of the division of conservation or the
5 conservation easement oversight commission under section 12-15-106.
6 (c) ~~The information required in paragraph (f) of subsection (3) of~~
7 ~~this section will no longer be required from the holder of the conservation~~
8 ~~easement."~~.
- 9 Page 7, line 3, strike "THAT IS" and substitute "EQUAL TO NINETY".
- 10 Page 7, strike line 4.
- 11 Page 7, line 14, after "(b)" insert "(I)".
- 12 Page 7, line strike line 21 and substitute:
13 "income or ownership percentage from such entity or group.
14 (II) (A) For income".
- 15 Page 8, strike line 2 and substitute:
16 "dollars for that income tax year.
17 (B) For income tax years commencing on or".
- 18 Page 8, strike line 10 and substitute:
19 "tax year.
20 (C) For income tax years commencing on or after January 1,
21 2007,".
- 22 Page 8, strike line 18 and substitute:
23 "year.
24 (D) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
25 1,".
- 26 Page 8, strike lines 26 and 27 and substitute:
- 27 "(5) (b) (III) If any refund is claimed pursuant to ~~subparagraph (f)~~
28 ~~of this paragraph (b)~~ SUBSECTION (5)(b)(I) OF THIS SECTION, then the
29 aggregate amount of the refund and amount of the credit used as an offset
30 against income taxes, EXCLUDING AMOUNTS TRANSFERRED TO OR USED BY
31 A TRANSFEREE, for that income tax year shall not exceed fifty thousand
32 dollars for that income tax year. In the case of a partnership, S
33 corporation, or other similar pass-through entity that donates a
34 conservation easement as an entity, if any refund is claimed pursuant to

1 ~~subparagraph (I) of this paragraph (b)~~ SUBSECTION (5)(b)(I) OF THIS
2 SECTION, the aggregate amount of the refund and the credit claimed by the
3 partners, members, or shareholders of the entity shall not exceed the
4 dollar limitation set forth in this ~~subparagraph (II)~~ SUBSECTION (5)(b)(III)
5 for that income tax year. Nothing in this ~~subparagraph (II)~~ SUBSECTION
6 (5)(b)(III) shall limit a taxpayer's ability to claim a credit against taxes
7 due in excess of fifty thousand dollars in accordance with subsection (4)
8 of this section."

9 Page 9, strike lines 1 through 10 and substitute:

10 "(6) (a) For conservation easements donated prior to January 1,
11 2014, a taxpayer may claim only one tax credit under this section per
12 income tax year; except that a transferee of a tax credit under subsection
13 (7) of this section may claim an unlimited number of credits. A taxpayer
14 who has carried forward or elected to receive a refund of part of the tax
15 credit in accordance with subsection (5) of this section shall not claim an
16 additional tax credit under this section for any income tax year
17 COMMENCING PRIOR TO JANUARY 1, 2014, in which the taxpayer applies
18 the amount carried forward against income tax due or receives a refund.
19 A ~~taxpayer~~ TRANSFEROR who has transferred a credit to a transferee
20 pursuant to subsection (7) of this section shall not claim an additional tax
21 credit under this section for any income tax year COMMENCING PRIOR TO
22 JANUARY 1, 2014, in which the transferee uses such transferred credit.
23 COMMENCING JANUARY 1, 2014, A TAXPAYER MAY CLAIM ONE TAX
24 CREDIT PER YEAR REGARDLESS OF WHETHER THE TAXPAYER HAS CREDITS
25 REMAINING FROM ANY PRIOR CONSERVATION EASEMENT DONATION."

26 Page 10, after line 18 insert:

27 "(7.5) (a) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
28 JANUARY 1, 2021, IN LIEU OF A CREDIT WITH RESPECT TO THE INCOME
29 TAXES IMPOSED BY THIS ARTICLE 22, THERE IS ALLOWED A TRANSFERABLE
30 EXPENSE AMOUNT TO EACH QUALIFIED ENTITY THAT DONATES DURING THE
31 TAXABLE YEAR ALL OR PART OF THE VALUE OF A PERPETUAL
32 CONSERVATION EASEMENT IN GROSS CREATED PURSUANT TO ARTICLE 30.5
33 OF TITLE 38 UPON REAL PROPERTY THE QUALIFIED ENTITY OWNS TO A
34 GOVERNMENTAL ENTITY OR A CHARITABLE ORGANIZATION DESCRIBED IN
35 SECTION 38-30.5-104 (2). A TRANSFERABLE EXPENSE AMOUNT SHALL BE
36 TREATED IN ALL MANNERS AS A TAX CREDIT FOR PURPOSES OF THIS
37 SECTION, INCLUDING PROVISIONS GOVERNING THE AMOUNT, VALUATION,
38 AND TRANSFER OF A TAX CREDIT; EXCEPT THAT THE TRANSFERABLE
39 EXPENSE AMOUNT MAY ONLY BE TRANSFERRED TO A TRANSFEREE TO BE

1 CLAIMED BY THE TRANSFEREE AS A CREDIT PURSUANT TO THIS SECTION. A
2 QUALIFIED ENTITY MAY TRANSFER A TRANSFERABLE EXPENSE AMOUNT TO
3 BE CLAIMED AS A CREDIT BY A TRANSFEREE PURSUANT TO THIS SECTION
4 REGARDLESS OF WHETHER THE QUALIFIED ENTITY RECEIVES VALUE IN
5 EXCHANGE FOR THE TRANSFER.

6 (b) AS USED IN THIS SUBSECTION (7.5), "QUALIFIED ENTITY" MEANS
7 A GOVERNMENTAL ENTITY THAT MEETS THE DEFINITION OF "TAXPAYER"
8 AS SET FORTH IN SUBSECTION (1)(b) OF THIS SECTION BUT IS OTHERWISE
9 EXEMPT FROM THE INCOME TAXES IMPOSED BY THIS ARTICLE 22."

** *** ** *** **