



## **Conservation Easement Tax Credit Reform:**

### **Preserving What Makes Colorado Special, While Saving Taxpayers Money**

Whether you are a farmer in the San Luis Valley, a rancher on the Front Range, an outfitter in Gunnison, or simply raising a family and a garden in Mancos, Colorado landowners and agricultural producers are faced with many hard decisions each year. They look at commodity prices, real estate trends, weather and water forecasts, and bank statements to try to determine what the year might bring.

For many landowners, the hardest question they face is whether or not they'll be able to pay their mortgage and keep their property another year, or another 10 years. They ask themselves, what would become of their homes and land if they were forced to sell. It's very often their desire to see their lands protected forever from development, so their kids and grandkids can continue in their path if they so choose, or to create opportunities for new generations to connect with the land and create their own stories and legacies. Oftentimes, they need some help to realize this dream.

With its passage in the final minutes of the 2018 legislative session, House Bill 1291 is a major win for Colorado landowners and taxpayers. The bill reauthorizes key provisions of the Colorado Conservation Easement Tax Credit program, which means that more lands will be conserved throughout the state, safeguarding our agricultural heritage, protecting critical wildlife habitat, and providing needed relief for taxpayers.

#### **The Economic Impact of Conserving Land**

When Colorado passed legislation in 1999 creating the Conservation Easement Tax Credit incentive, it was unknown what impact this program might have on private lands conservation throughout the State. Eighteen years later, studies show that Colorado receives \$4 - \$12 of economic benefit for every \$1 of foregone revenue from conservation easement tax credits. That's an incredible return on investment! Through all the ups and downs and despite some major setbacks, we can now objectively say that this program is vital to the health of the State and its residents. Millions of acres have been conserved throughout Colorado, protecting our food security, our ecosystem services, our wildlife, our rural heritage, and our scenic wonders.

#### **2018 Legislation: What It Means For Landowners and Taxpayers**

House Bill 1291 brings some big changes to the Conservation Easement Tax Credit program, which are geared to make the program more efficient and to help soothe some of the unintended consequences that arose in the program's infancy. Among the most significant provisions, the bill:

- **Creates a new Division of Conservation** within the Department of Regulatory Agencies (DORA) and transfers authority and responsibility for the CE tax credit program (including holder certification and easement tax credit application review) from the Division of Real Estate to the new Division of Conservation.

- **Changes the composition of the Conservation Easement Oversight Commission (CEOC)** to include a non-voting member of Great Outdoors Colorado (GOCO), a voting member representing the Dept. of Natural Resources (DNR), a voting member representing the Dept. of Agriculture, three voting members appointed by the Governor, including two members representing certified easement holders and one member who is qualified to analyze the conservation purpose of an easement, and finally two voting members of the general public
- **Streamlines the Certification Process for easement holders**
- **Clarifies educational requirements for qualified appraisers**
- Ensures that the **fees prescribed by the state to access the Tax Credit Program are adequate to pay for administrative costs, but not so high as to act as a disincentive** to the creation of conservation easements in the state
- **Creates a new conservation cash fund in the State Treasury** to hold fees paid to the Division of Conservation for holder certification and easement tax credit applications, as well as gifts, grants, and donations. This should allow better cash management so the easement tax credit program does not shut down during the year.
- **Provides a flat 120 days to review, approve, or deny easement tax credit applications**
- **Improves transparency and accountability** by authorizing the Director of the Division of Conservation to share publicly-available information regarding easements with the CSU COMaP program, to create a “registry” of easements in the state.
- **Allows tax credit buyers to purchase credits prior to the due date for their tax returns, including extensions**

Importantly, in an attempt to fully and finally address the concerns of aggrieved landowners in southeast Colorado and elsewhere around the state, the bill also directs the Division of Conservation to convene a working group to develop recommendations for how to provide relief to landowners whose credits were disallowed during the early days of the program.

The working group will discuss options ranging from an alternate method to the appraisal process to establish a baseline property value, to a process to petition a court to extinguish a conservation easement, and a process to provide retroactive tax credits to taxpayers who claimed tax credits between 2000, and 2008, and whose tax credits were denied in whole or in part. The working group must submit a report to the House and Senate no later than December 1, 2018. The report will include any recommendations for future legislation or rulemaking to address the issues above.

Colorado is still one of the only states in the Country with a transferable tax credit program for private lands conservation. Because of this, we remain a leader in conserving productive agricultural lands, wildlife habitat, and scenic landscapes for future generations, embracing our history and our heritage while addressing the real concerns that come with growth.

Please reach out to us if you’d like to discuss how these bills will affect you or your family as you consider conserving your land or buying tax credits. We always love to hear from you!

**For more information, please contact:**

**Tax Credit Connection, Inc.**

Ariel Steele • Owner • 303 827 5851 • [ariel@taxcreditconnection.com](mailto:ariel@taxcreditconnection.com)

Jeremy Christensen • Land Protection Specialist • 970 532 9865 • [jeremy@taxcreditconnection.com](mailto:jeremy@taxcreditconnection.com)

Mailing Address: P.O. Box 1361 • Physical Address: 328 Massachusetts Ave, Berthoud CO

[www.taxcreditconnection.com](http://www.taxcreditconnection.com)

This information is not intended to be legal or financial advice. Please consult your own advisor.