

**DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF REAL ESTATE
CONSERVATION EASEMENTS
4 CCR 725-4**

**NOTICE OF PROPOSED PERMANENT RULEMAKING HEARING
October 24, 2011**

D-2 Transferring Conservation Easements to Non-Certified Entities

Pursuant to and in compliance with Title 12, Article 61 and Title 24, Article 4, C.R.S. as amended, notice of proposed rulemaking is hereby given, including notice to the Attorney General of the State of Colorado and to all persons who have requested to be advised of the intention of the Colorado Division of Real Estate (the "Division") to promulgate rules, or to amend, repeal or repeal and re-enact the present rules of the Division regarding the conservation easement certification program.

- Section 1. Authority
- Section 2. Scope and Purpose
- Section 3. Applicability
- Section 4. Definitions
- Section 5. D-2 Transferring Conservation Easements to Non-Certified Entities

Section 1. Authority

The Division of Real Estate adopts the following permanent rule entitled, **D-2 Transferring Conservation Easements to Non-Certified Entities**, according to the authority found in section 12-61-720 (11) C.R.S.

Section 2. Scope and Purpose

Pursuant to section 12-61-720 (11), C.R.S., the Division shall have the authority to promulgate rules for the conservation easement certification program. The specific purpose of this rule is to prevent a non-certified organization from holding a transferred conservation easement for which a tax credit is claimed.

Section 3. Applicability

This rule applies to any nonprofit entity and any government entity that holds a conservation easement for which a tax credit is claimed pursuant to section 39-22-522, C.R.S.

Section 4. Definitions

- 1) "Conservation easement" means conservation easements that have a charitable donation component. This includes full donation and bargain sale conservation easements.

Section 5. D-2 Transferring Conservation Easements to Non-Certified Entities

A conservation easement holder may not assign or otherwise transfer all or a partial interest in a conservation easement for which a state tax credit is claimed to an organization that is not certified. An organization may not accept an assigned or otherwise transferred interest in a conservation easement for which a state tax credit is claimed if they are not certified at the time of acceptance. Governmental entities transferring a partial interest in a conservation easement to another governmental entity in accordance with an established written agreement shall be exempt from this prohibition on transferring a partial interest in a conservation easement. The certified grantee and all certified organizations retaining a partial interest in the conservation easement shall remain responsible for stewardship and defense of the conservation easement at all times.

A hearing on the above subject matter will be held on Monday, October 24, 2011, at the Colorado Division of Real Estate, 1560 Broadway, Suite 1250C, Denver, Colorado 80202 beginning at 10:00 a.m.

Any interested person may participate in the rule making through submission of written data, views and arguments to the Division of Real Estate. Persons are requested to submit data, views and arguments to the Division of Real Estate in writing no less than ten (10) days prior to the hearing date and time set forth above. However, all data, views and arguments submitted prior to or at the rulemaking hearing or prior to the closure of the rulemaking record (if different from the date and time of hearing), shall be considered.

Please be advised that the rule being considered is subject to further changes and modifications after public comment and formal hearing.