

**First Extraordinary Session
Seventy-second General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 20B-0054.01 Megan Waples x4348

HOUSE BILL 20B-1006

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A BILL FOR AN ACT

101 **CONCERNING MODIFICATIONS TO THE INSURANCE PREMIUM TAX, AND,**
102 **IN CONNECTION THEREWITH, MODIFYING HOW CREDITS**
103 **AGAINST PREMIUM TAX PAYMENTS MAY BE CLAIMED OR**
104 **TRANSFERRED, ADJUSTING HOW ESTIMATED QUARTERLY TAXES**
105 **ARE CALCULATED, AND ALLOWING A COMPANY TO CLAIM A**
106 **REFUND FOR OVERPAYMENTS OF ESTIMATED PREMIUM TAX**
107 **LIABILITY.**

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://leg.colorado.gov>.)

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
3rd Reading Unamended
December 2, 2020

SENATE
2nd Reading Unamended
December 1, 2020

HOUSE
3rd Reading Unamended
December 1, 2020

HOUSE
Amended 2nd Reading
November 30, 2020

The bill:

- Adjusts how calendar quarter estimates of the tax on insurance premiums are calculated and allows the payment for the first calendar quarter of a year to be adjusted to reflect the claiming of an allowable tax credit or previous estimated payments;
- Allows a company that has overpaid on its estimated premium tax liability to either apply the overpayment to future estimated payments or claim a refund; except that the company may not claim a refund for any overpayment that is due to claiming a nonrefundable tax credit;
- Allows a taxpayer to claim a small business recovery tax credit or an affordable housing tax credit against estimated tax payments; and
- Provides for the transfer of small business recovery tax credits among affiliates.

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

2 **SECTION 1.** In Colorado Revised Statutes, 10-3-209, **amend**
3 (3)(b), (3)(c), and (3)(d) as follows:

4 **10-3-209. Tax on premiums collected - exemptions - penalties.**

5 (3) (b) Such estimated taxes shall become due and payable on the last day
6 of the month following the close of any calendar quarter of the year,
7 except for the fourth quarter which shall be due March 1 and shall include
8 adjustments for the preceding calendar year. Any company failing or
9 refusing to pay such estimated taxes for more than thirty days after the
10 time specified shall be liable to a penalty of up to one hundred dollars for
11 each additional day of delinquency, to be assessed by the commissioner.
12 Failure of a company to make quarterly payments, if required, each
13 payment to be of at least one-fourth of either the total tax paid during the
14 preceding calendar year or eighty percent of the actual quarterly tax for
15 the current calendar year, whichever is ~~greater~~ LESSER, shall be
16 considered and treated the same as a failure or refusal to pay the estimated

1 taxes and shall subject the company to the penalties provided in this
2 ~~paragraph~~ SUBSECTION (3)(b). The amount of estimated taxes and the
3 penalties collected shall be paid to the division of insurance; and the
4 commissioner may suspend the certificate of authority of such delinquent
5 company until such estimated taxes and penalty, should any penalty be
6 imposed, are fully paid.

7 (c) Estimated taxes paid pursuant to this subsection (3) shall be
8 based on the estimated amount of taxable premiums during the preceding
9 calendar quarter. ~~Except for the first calendar quarter of any year,~~
10 Calendar quarter estimates of taxes may include adjustments for any
11 ~~previous calendar quarter estimates of taxes and ALLOWABLE TAX~~
12 ~~CREDITS CLAIMED BY THE COMPANY IN ACCORDANCE WITH PART 1 OF~~
13 ~~ARTICLE 3.5 OF TITLE 10, PART 2 OF ARTICLE 36 OF TITLE 24, PART 2 OF~~
14 ~~ARTICLE 46 OF TITLE 24, PART 21 OF ARTICLE 22 OF TITLE 39, OR ANY~~
15 ~~OTHER LAW AUTHORIZING A CREDIT AGAINST PREMIUM TAX LIABILITY.~~
16 ~~Estimated taxes shall be paid on the basis of such adjusted estimates.~~

17 (d) (I) Adjustments in payments of estimated taxes for any
18 calendar year shall be made at the time of the filing of the annual
19 statement required under section 10-3-208 and the payment of taxes
20 required by this section. IF, UPON THE FILING OF THE ANNUAL STATEMENT,
21 A COMPANY HAS OVERPAID ITS TAXES FOR ANY CALENDAR YEAR, THE
22 COMPANY MAY EITHER APPLY THE OVERPAYMENT TO ITS CALENDAR
23 QUARTER ESTIMATES OF TAXES IN A SUBSEQUENT CALENDAR YEAR OR
24 CLAIM A REFUND FOR THE ~~AMOUNT OF THE OVERPAYMENT.~~ ~~If a company~~
25 ~~claims a refund,~~ it shall file for such refund at the time of filing such
26 annual statement, and, if the commissioner claims a deficiency, ~~he~~ THE
27 COMMISSIONER shall notify the deficient company thereof.

1 (II) IN CALCULATING THE AMOUNT OF A REFUND CLAIMED
2 PURSUANT TO SECTION (3)(d)(I) OF THIS SECTION, THE VALUE OF A
3 NONREFUNDABLE TAX CREDIT CLAIMED BY THE COMPANY MUST BE
4 APPLIED FIRST TO THE COMPANY'S TOTAL TAX LIABILITY, PRIOR TO
5 APPLYING ANY OTHER PAYMENT MADE BY THE COMPANY REGARDLESS OF
6 THE ORDER IN WHICH SUCH PAYMENTS OR CREDITS WERE RECEIVED. THE
7 REFUND MUST NOT EXCEED THE TOTAL AMOUNT OF ANY ADDITIONAL
8 PAYMENTS MADE BY THE COMPANY.

9 SECTION 2. In Colorado Revised Statutes, 24-36-203, **amend**
10 (10) as follows:

11 24-36-203. **Definitions.** As used in this part 2, unless the context
12 otherwise requires:

13 (10) "Qualified taxpayer" means an insurance company authorized
14 to do business in Colorado that has premium tax liability owing to the
15 state and that purchases a tax credit under this part 2. "Qualified taxpayer"
16 also includes an insurance company that receives or assumes a tax credit
17 transferred in accordance with section 24-36-206 (7)(e) or 24-36-207 (6),
18 OR THAT RECEIVES OR ASSUMES A TAX CREDIT AS AN AFFILIATE OF A
19 QUALIFIED TAXPAYER OR TRANSFEREE. FOR PURPOSES OF THIS
20 SUBSECTION (10), "AFFILIATE" HAS THE SAME MEANING AS SET FORTH IN
21 SECTION 10-3-801 (1).

22 SECTION 3. In Colorado Revised Statutes, 24-36-206, **amend**
23 (6)(e) as follows:

24 24-36-206. **Small business recovery tax credits - authorization**
25 **to issue - terms - report.** (6) On receipt of payment of the sale proceeds,
26 the department shall issue to each qualified taxpayer a tax credit
27 certificate. The tax credit certificate must state all of the following:

1 (e) The procedures to be used for transferring or assuming the tax
2 credits in accordance with subsection (7)(e) of this section or section
3 24-36-207 (6), OR BETWEEN AFFILIATES AS DEFINED IN SECTION 10-3-801
4 (1);

5 **SECTION 4.** In Colorado Revised Statutes, 24-36-207, **amend**
6 (1) and (2) as follows:

7 **24-36-207. Use of small business recovery tax credits - carry**
8 **over.** (1) For a tax credit certificate issued in fiscal year 2020-21:

9 (a) ~~In calendar year 2026,~~ The qualified taxpayer may claim up to
10 fifty percent of the credit against premium tax liability incurred for a
11 taxable year that begins on or after January 1, 2025; EXCEPT THAT, A
12 TAXPAYER MAY NOT REDUCE ITS ESTIMATED TAX PAYMENTS IN
13 PROPORTION TO SUCH CREDIT PRIOR TO JULY 1, 2025; and

14 (b) ~~Beginning in calendar year 2027,~~ The qualified taxpayer may
15 claim the remaining amount of the credit against premium tax liability
16 incurred for a taxable year that begins on or after January 1, 2026; EXCEPT
17 THAT, A TAXPAYER MAY NOT REDUCE ITS ESTIMATED TAX PAYMENTS IN
18 PROPORTION TO SUCH CREDIT PRIOR TO JULY 1, 2026.

19 (2) For a tax credit certificate issued in fiscal year 2021-22,
20 ~~beginning in calendar year 2028,~~ the qualified taxpayer may claim the
21 credit against premium tax liability incurred for a taxable year that begins
22 on or after January 1, 2027; EXCEPT THAT, A TAXPAYER MAY NOT REDUCE
23 ITS ESTIMATED TAX PAYMENTS IN PROPORTION TO SUCH CREDIT PRIOR TO
24 JULY 1, 2027.

25 **SECTION 5.** In Colorado Revised Statutes, 39-22-2105, **amend**
26 (1) as follows:

27 **39-22-2105. Parallel credits - insurance premium taxes.**

1 (1) Any taxpayer who is subject to the tax on insurance premiums
2 established by sections 10-3-209, 10-5-111, and 10-6-128 ~~C.R.S.~~, and
3 who is therefore exempt from the payment of income tax and who is
4 otherwise eligible to claim a credit pursuant to this part 21 may claim
5 such credit and carry such credit forward against such insurance premium
6 tax ON ITS CALENDAR QUARTER ESTIMATED TAX PAYMENTS MADE IN
7 ACCORDANCE WITH SECTION 10-3-209 to the same extent as the taxpayer
8 would have been able to claim or carry forward such credit or refund
9 against income tax. All other provisions of this part 21 with respect to the
10 credit, including the amount, allocation, and recapture of the credit and
11 the years for which the credit may be claimed shall apply to a credit
12 claimed pursuant to this section.

13 **SECTION 6. Safety clause.** The general assembly hereby finds,
14 determines, and declares that this act is necessary for the immediate
15 preservation of the public peace, health, or safety.