

**Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 22-0942.01 Megan Waples x4348

HOUSE BILL 22-1328

HOUSE SPONSORSHIP

Titone and McLachlan,

SENATE SPONSORSHIP

Donovan,

House Committees

Business Affairs & Labor
Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MODIFICATIONS TO THE "COLORADO LOANS FOR**
102 **INCREASING MAIN STREET BUSINESS ECONOMIC RECOVERY**
103 **ACT".**

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>.)

The bill adjusts various requirements applicable to the "Colorado Loans for Increasing Main Street Business Economic Recovery Act" (program) that provides small business recovery loans to Colorado businesses, funded in part through the sale of premium tax credits. The bill:

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.

HOUSE
2nd Reading Unamended
May 4, 2022

- Extends the period through which the program can issue capital for the loan program through fiscal year 2023-24;
- Increases the amount of capital that can be issued in the last 3 fiscal years without increasing the total amount that can be issued for the life of the program;
- Lowers the minimum amount of a loan to a small business from \$30,000 to \$10,000;
- Lengthens the maximum initial maturity of a loan to a small business from 5 years to 10 years;
- Changes the requirements for an eligible borrower to require one year of positive cash flow instead of 2, and at least one employee instead of at least 5 employees;
- Clarifies the benchmarks that apply to the program for making loans to businesses owned by socially and economically disadvantaged individuals;
- Extends the time for the program to issue tax credits through state fiscal year 2022-23;
- Allows tax credits issued in fiscal years 2021-22 and 2022-23 to be claimed on a schedule beginning in a taxable year that begins on or after January 1, 2023; and
- Removes a requirement that if additional state or federal money is appropriated or allocated to the program, the value of the tax credits authorized by the program must be reduced by the same amount.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-36-203, **amend**
 3 (4)(b) and (4)(c) as follows:

4 **24-36-203. Definitions.** As used in this part 2, unless the context
 5 otherwise requires:

6 (4) "Eligible borrower" means a business that, as determined by
 7 the oversight board:

8 (b) Has at least ~~five~~ ONE but fewer than one hundred employees;

9 (c) Can demonstrate that it had at least ~~two consecutive years~~ ONE
 10 YEAR of positive cash flow ~~prior to February 29, 2020~~ AS DETERMINED BY
 11 THE OVERSIGHT BOARD; and

1 **SECTION 2.** In Colorado Revised Statutes, 24-36-205, **amend**
2 (3)(a)(II), (3)(b), (4)(a), (4)(b) introductory portion, (4)(b)(I), (4)(b)(II),
3 and (4)(d) as follows:

4 **24-36-205. Small business recovery loan program - creation -**
5 **requirements - oversight.** (3) (a) Notwithstanding any restriction on the
6 investment of state money set forth in section 24-36-113 or in any other
7 provision of law, subject to the availability of money in the small business
8 recovery fund and the requirements of this part 2:

9 (II) Subject to the limitations in subsection (3)(b) of this section,
10 in fiscal year YEARS 2021-22, 2022-23, AND 2023-24, the state treasurer
11 may provide up to ~~thirty~~ A TOTAL OF FORTY million dollars in first loss
12 capital to a loan program or programs or to the Colorado credit reserve
13 from the small business recovery fund.

14 (b) The money provided under this subsection (3) must be
15 provided in tranches of ten million dollars or less, up to a maximum
16 amount of fifty million dollars in all tranches combined across fiscal years
17 2020-21 ~~and 2021-22~~ THROUGH 2023-24. The state treasurer shall not
18 provide a tranche to a loan program or to the Colorado credit reserve until
19 at least ninety percent of the money in any prior tranche has been invested
20 in small business loans in accordance with subsection (4) of this section,
21 as determined by the oversight board and certified by the loan program
22 manager. Money provided to the Colorado credit reserve is considered
23 invested in small business loans for the purposes of this subsection (3)(b)
24 once it is paid to the Colorado housing and finance authority.

25 (4) Any contract for the administration of a loan program must
26 include the following terms in order to receive money provided by the
27 state treasurer pursuant to subsection (3) of this section:

1 (a) Except for money contributed to the Colorado credit reserve,
2 the money provided by the state treasurer in a single tranche shall not be
3 committed pursuant to a contract relating to a loan program until money
4 is committed pursuant to a contract relating to a loan program from other
5 sources at a ratio of ATLEAST four dollars from other sources for each one
6 dollar provided by the state. If a loan program manager does not secure
7 sufficient investments from other sources to meet this requirement within
8 the time allowed by a contract, the money provided by the state shall be
9 returned to the small business recovery fund.

10 (b) Except for money contributed to the Colorado credit reserve,
11 once the money in a tranche is matched in accordance with subsection
12 (4)(a) of this section, it must be used to make loans or purchase
13 participation interest in loans for working capital, INCLUDING THE
14 PURCHASE OF EQUIPMENT, to eligible borrowers, or other activities that
15 accomplish the same purpose. The oversight board shall consult with
16 lending industry leaders and representatives of small businesses with
17 regard to subsections (4)(b)(I) to (4)(b)(VI) of this section. Each loan
18 must be subject to the following terms:

19 (I) The loan must be in an amount of at least ~~thirty~~ TEN thousand
20 dollars but not more than five hundred thousand dollars, as determined by
21 the oversight board;

22 (II) The loan must have a maximum initial maturity of ~~five~~ UP TO
23 TEN years, based on the need of the eligible borrower, with no penalty for
24 prepayment, as determined by the oversight board. The originating lender
25 may extend the term for purposes of restructuring the loan.

26 (d) (I) A loan program manager shall make every effort to achieve
27 ~~targets~~ BENCHMARKS published by the oversight board pursuant to section

1 24-36-204 (8)(d) for the percentage of loans supported by the program
2 that are made to businesses owned by SOCIALLY AND ECONOMICALLY
3 DISADVANTAGED INDIVIDUALS, INCLUDING BUSINESSES OWNED BY
4 women, minorities, and veterans and to businesses located in rural
5 counties. A loan program manager shall consult with the minority
6 business office within the office of the governor and the division of
7 business funding and incentives within the office of economic
8 development to develop an outreach strategy for marketing the loan
9 program to businesses owned by women, minorities, and veterans and
10 businesses located in rural counties.

11 (II) For money contributed to the Colorado credit reserve, the
12 oversight board may waive the requirements of this subsection (4)(d) or
13 may establish alternative ~~targets~~ BENCHMARKS for the percentage of loans
14 supported by the program that are made to businesses owned by SOCIALLY
15 AND ECONOMICALLY DISADVANTAGED INDIVIDUALS, INCLUDING
16 BUSINESSES OWNED BY women, minorities, and veterans and to businesses
17 located in rural counties.

18 **SECTION 3.** In Colorado Revised Statutes, 24-36-206, **amend**
19 (2)(b) and (9)(a) introductory portion as follows:

20 **24-36-206. Small business recovery tax credits - authorization**
21 **to issue - terms - report.** (2) (b) The department is authorized to issue
22 tax credit certificates to qualified taxpayers equal to the lesser of a
23 COMBINED total face value of up to twenty-eight million dollars or
24 COMBINED total sales proceeds of up to twenty-one million dollars in
25 fiscal year 2021-22; ~~except that, if money received by the state from the~~
26 ~~federal government has been appropriated, transferred, or allocated to the~~
27 ~~fund for the purposes of this part 2, the value of the tax sales proceeds~~

1 that the department is authorized to raise under this subsection (2)(b) in
2 fiscal year 2021-22 is reduced by the amount of federal money
3 appropriated, transferred, or allocated by the fund YEARS 2021-22 AND
4 2022-23.

5 (9) (a) The department shall provide a report to the division of
6 insurance in the department of regulatory agencies for each fiscal year in
7 which it issues tax credit certificates pursuant to this part 2 within thirty
8 days of AFTER the close of the fiscal year ISSUANCE OF THE CREDITS. The
9 report must include:

10 **SECTION 4.** In Colorado Revised Statutes, 24-36-207, **amend**
11 (2) and (3) as follows:

12 **24-36-207. Use of small business recovery tax credits - carry**
13 **over.** (2) For a tax credit certificate issued in fiscal year 2021-22 OR
14 FISCAL YEAR 2022-23:

15 (a) The qualified taxpayer may claim UP TO FIFTY PERCENT OF the
16 credit against premium tax liability incurred for a taxable year that begins
17 on or after ~~January 1, 2027~~ JANUARY 1, 2023; except that a taxpayer may
18 not reduce its estimated tax payments in proportion to such credit prior to
19 ~~July 1, 2027~~ JULY 1, 2023; AND

20 (b) THE QUALIFIED TAXPAYER MAY CLAIM THE REMAINING
21 AMOUNT OF THE CREDIT AGAINST PREMIUM TAX LIABILITY INCURRED FOR
22 A TAXABLE YEAR THAT BEGINS ON OR AFTER JANUARY 1, 2024; EXCEPT
23 THAT A TAXPAYER MAY NOT REDUCE THE TAXPAYER'S ESTIMATED TAX
24 PAYMENTS IN PROPORTION TO SUCH CREDIT PRIOR TO JULY 1, 2024.

25 (3) (a) The total credit to be applied by a qualified taxpayer in any
26 one year must not exceed the premium tax liability of the qualified
27 taxpayer for the taxable year. If the qualified taxpayer cannot use the

1 entire amount of the tax credit for the taxable year in which the taxpayer
2 is eligible for the credit, the excess may be carried over to succeeding
3 taxable years and used as a credit against the premium tax liability of the
4 taxpayer for those taxable years; except that:

5 (I) FOR A CREDIT ISSUED IN FISCAL YEAR 2020-21, the credit may
6 not be carried over to any taxable year that begins after December 31,
7 2031; AND

8 (II) FOR A CREDIT ISSUED IN FISCAL YEAR 2021-22 OR 2022-23,
9 THE CREDIT MAY NOT BE CARRIED OVER TO ANY TAXABLE YEAR THAT
10 BEGINS AFTER DECEMBER 31, 2029.

11 (b) Any amount of the credit that is not timely claimed expires and
12 is not refundable.

13 **SECTION 5.** In Colorado Revised Statutes, 24-36-208, **amend**
14 (4), (5), and (6) as follows:

15 **24-36-208. Small business recovery fund - repeal.**

16 (4) Beginning in fiscal year ~~2025-26~~ YEAR 2027-28, the state treasurer
17 shall credit any unexpended and unencumbered money remaining in the
18 fund at the end of a fiscal year to the general fund.

19 (5) The state treasurer shall transfer all unexpended and
20 unencumbered money in the fund at the end of the fiscal year on ~~June 30,~~
21 ~~2029~~ JUNE 30, 2037, to the general fund.

22 (6) This section is repealed, effective ~~July 1, 2029~~ JULY 1, 2037.

23 **SECTION 6.** In Colorado Revised Statutes, **amend** 24-36-210 as
24 follows:

25 **24-36-210. Repeal of part.** This part 2 is repealed, effective
26 ~~December 31, 2033~~ DECEMBER 31, 2040.

27 **SECTION 7. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, or safety.