

CHAPTER 244

TAXATION

HOUSE BILL 24-1249

BY REPRESENTATIVE(S) Winter T. and Martinez, Amabile, Bird, deGruy Kennedy, Duran, Joseph, Kipp, Lieder, Lukens, Lynch, Mauro, McCormick, McLachlan, Titone, McCluskie;
also SENATOR(S) Pelton R. and Roberts, Bridges, Cutter, Fields, Gardner, Kirkmeyer, Liston, Michaelson Jenet, Pelton B., Priola, Simpson, Smallwood, Will, Fenberg.

AN ACT

**CONCERNING A STATE INCOME TAX CREDIT FOR ACTIVE AGRICULTURAL STEWARDSHIP PRACTICES,
AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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

SECTION 1. In Colorado Revised Statutes, **add** 39-22-561 as follows:

39-22-561. Agricultural stewardship tax credit - tax preference performance statement - legislative declaration - definitions - repeal. (1) (a) IN ACCORDANCE WITH SECTION 39-21-304(1), WHICH REQUIRES EACH BILL THAT CREATES A NEW TAX EXPENDITURE TO INCLUDE A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A STATUTORY LEGISLATIVE DECLARATION, THE GENERAL ASSEMBLY DECLARES THAT THE PURPOSE OF THE TAX CREDIT CREATED IN THIS SECTION IS TO INDUCE CERTAIN DESIGNATED BEHAVIOR BY TAXPAYERS, SPECIFICALLY TO ENCOURAGE AN INDIVIDUAL TO ACTIVELY PRACTICE ONE OR MORE QUALIFIED STEWARDSHIP PRACTICES ON A FARM OR RANCH, INCLUDING ANY PRACTICE THAT INCREASES SOIL HEALTH, IMPROVES WATER EFFICIENCY, OR CREATES MORE DIVERSE AND BENEFICIAL ECOSYSTEMS WHILE MAINTAINING THE PRODUCTIVITY OF THE FARM OR RANCH.

(b) THE GENERAL ASSEMBLY AND THE STATE AUDITOR SHALL MEASURE THE EFFECTIVENESS OF THE CREDIT IN ACHIEVING THE PURPOSE SPECIFIED IN SUBSECTION (1)(a) OF THIS SECTION BASED ON THE INFORMATION REQUIRED TO BE MAINTAINED BY AND REPORTED TO THE STATE AUDITOR BY THE DEPARTMENT OF AGRICULTURE PURSUANT TO SUBSECTION (4)(b) OF THIS SECTION.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(a) "CREDIT CERTIFICATE" MEANS A CERTIFICATE ISSUED BY THE DEPARTMENT OF AGRICULTURE CERTIFYING THAT A QUALIFIED TAXPAYER QUALIFIES FOR AN INCOME TAX CREDIT AUTHORIZED IN THIS SECTION AND SPECIFYING THE AMOUNT OF THE CREDIT ALLOWED AND THE INCOME TAX YEAR FOR WHICH THE CREDIT MAY BE CLAIMED.

(b) "QUALIFIED STEWARDSHIP PRACTICE" MEANS ANY AGRICULTURAL PRACTICE, AS SPECIFIED BY RULES ISSUED BY THE COMMISSIONER OF THE DEPARTMENT OF AGRICULTURE, THAT MAY INCLUDE A GRAZING OR CROPPING PRACTICE THAT IMPROVES SOIL HEALTH, IMPROVES WATER RETENTION AND DROUGHT RESILIENCE, OR CREATES MORE DIVERSE AND BENEFICIAL ECOSYSTEMS WHILE MAINTAINING THE PRODUCTIVITY OF THE FARM OR RANCH, INCLUDING ROTATIONAL CROPS, REDUCED TILLAGE, NO TILLAGE, COVER CROPPING, INTEGRATING MANAGED LIVESTOCK GRAZING ON CROPLAND, RANGE IMPROVEMENTS, INTERSEEDING, OR COMPOST APPLICATION.

(c) "QUALIFIED TAXPAYER" MEANS A PERSON SUBJECT TO TAX PURSUANT TO THIS ARTICLE 22 WHO ACTIVELY PRACTICES A QUALIFIED STEWARDSHIP PRACTICE ON A FARM OR RANCH LOCATED IN THE STATE DURING AN INCOME TAX YEAR, WHETHER THE QUALIFIED STEWARDSHIP PRACTICE IS NEWLY PRACTICED DURING THE INCOME TAX YEAR OR IS BEING CONTINUED FROM A PRIOR INCOME TAX YEAR.

(3) (a) SUBJECT TO THE LIMITATIONS SET FORTH IN SUBSECTION (3)(b) OF THIS SECTION, FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2026, BUT BEFORE JANUARY 1, 2031, A QUALIFIED TAXPAYER IS ALLOWED A CREDIT AGAINST THE INCOME TAXES IMPOSED BY THIS ARTICLE 22 IN AN AMOUNT EQUAL TO:

(I) A MINIMUM OF FIVE DOLLARS AND A MAXIMUM OF SEVENTY-FIVE DOLLARS PER ACRE OF LAND SUBJECT TO ONE QUALIFIED STEWARDSHIP PRACTICE, AS SPECIFIED BY RULE ISSUED BY THE COMMISSIONER OF THE DEPARTMENT OF AGRICULTURE, LIMITED TO A MAXIMUM CREDIT AMOUNT OF ONE HUNDRED FIFTY THOUSAND DOLLARS PER INCOME TAX YEAR;

(II) A MINIMUM OF TEN DOLLARS AND A MAXIMUM OF ONE HUNDRED DOLLARS PER ACRE OF LAND SUBJECT TO TWO QUALIFIED STEWARDSHIP PRACTICES, AS SPECIFIED BY RULE ISSUED BY THE COMMISSIONER OF THE DEPARTMENT OF AGRICULTURE, LIMITED TO A MAXIMUM CREDIT AMOUNT OF TWO HUNDRED THOUSAND DOLLARS PER INCOME TAX YEAR; AND

(III) A MINIMUM OF FIFTEEN DOLLARS AND A MAXIMUM OF ONE HUNDRED FIFTY DOLLARS PER ACRE OF LAND SUBJECT TO THREE OR MORE QUALIFIED STEWARDSHIP PRACTICES, AS SPECIFIED BY RULE ISSUED BY THE COMMISSIONER OF THE DEPARTMENT OF AGRICULTURE, LIMITED TO A MAXIMUM CREDIT AMOUNT OF THREE HUNDRED THOUSAND DOLLARS PER INCOME TAX YEAR.

(b) THE DEPARTMENT OF AGRICULTURE MAY ONLY ISSUE TAX CREDIT CERTIFICATES TO A QUALIFIED TAXPAYER:

(I) FOR THREE INCOME TAX YEARS; AND

(II) IF THE QUALIFIED TAXPAYER HAS NOT RECEIVED A TAX CREDIT, TAX

DEDUCTION, OR GRANT RELATED TO THE AGRICULTURAL LAND AND THE QUALIFYING STEWARDSHIP PRACTICE DURING AN INCOME TAX YEAR FOR WHICH A TAX CREDIT IS CLAIMED PURSUANT TO THIS SECTION FROM ANY OTHER SOURCE.

(4) (a) A QUALIFIED TAXPAYER SHALL SUBMIT AN APPLICATION TO THE DEPARTMENT OF AGRICULTURE FOR A TAX CREDIT CERTIFICATE TO CLAIM THE CREDIT ALLOWED BY THIS SECTION ON A FORM AND IN A MANNER PRESCRIBED BY THE DEPARTMENT OF AGRICULTURE. THE APPLICATION MUST INCLUDE A MEANS FOR THE TAXPAYER TO NOTE WHETHER THE TAXPAYER FILES INCOME TAXES ON A CALENDAR YEAR OR FISCAL YEAR BASIS AND INFORMATION TO ALLOW THE DEPARTMENT OF AGRICULTURE TO MAKE A DETERMINATION THAT THE STEWARDSHIP PRACTICE IS A QUALIFIED STEWARDSHIP PRACTICE, THAT THE QUALIFIED TAXPAYER IS ACTIVELY PRACTICING THE QUALIFIED STEWARDSHIP PRACTICE, AND TO VERIFY THE AMOUNT FOR WHICH THE TAX CREDIT CERTIFICATE IS APPLIED. A QUALIFIED TAXPAYER MAY RECEIVE ONLY ONE TAX CREDIT CERTIFICATE PER INCOME TAX YEAR.

(b) (I) THE DEPARTMENT OF AGRICULTURE SHALL MAINTAIN A DATABASE OF ANY INFORMATION DETERMINED NECESSARY BY THE DEPARTMENT OF AGRICULTURE TO EVALUATE THE EFFECTIVENESS OF THE INCOME TAX CREDIT ALLOWED IN THIS SECTION IN MEETING THE PURPOSE SET FORTH IN SUBSECTION (1) OF THIS SECTION AND SHALL PROVIDE SUCH INFORMATION, AND ANY OTHER INFORMATION THAT MAY BE NEEDED, IF AVAILABLE, TO THE STATE AUDITOR AS PART OF THE STATE AUDITOR'S EVALUATION OF THIS TAX EXPENDITURE REQUIRED BY SECTION 39-21-305.

(II) THE DEPARTMENT OF AGRICULTURE SHALL, IN A SUFFICIENTLY TIMELY MANNER TO ALLOW THE DEPARTMENT OF REVENUE TO PROCESS RETURNS CLAIMING THE INCOME TAX CREDIT ALLOWED IN THIS SECTION, PROVIDE THE DEPARTMENT OF REVENUE WITH AN ELECTRONIC REPORT FOR THE PRECEDING TAX YEAR THAT LISTS EACH QUALIFIED TAXPAYER TO WHICH THE DEPARTMENT OF AGRICULTURE ISSUED A TAX CREDIT CERTIFICATE AND INCLUDES THE FOLLOWING INFORMATION:

(A) THE QUALIFIED TAXPAYER'S NAME;

(B) THE AMOUNT OF THE INCOME TAX CREDIT THAT THE CERTIFICATE INDICATES THE QUALIFIED TAXPAYER IS ELIGIBLE TO CLAIM; AND

(C) THE QUALIFIED TAXPAYER'S SOCIAL SECURITY NUMBER OR THE QUALIFIED TAXPAYER'S COLORADO ACCOUNT NUMBER AND FEDERAL EMPLOYER IDENTIFICATION NUMBER.

(5) IN ORDER TO CLAIM THE CREDIT AUTHORIZED BY THIS SECTION, A QUALIFIED TAXPAYER SHALL FILE THE TAX CREDIT CERTIFICATE WITH THE QUALIFIED TAXPAYER'S STATE INCOME TAX RETURN. THE AMOUNT OF THE CREDIT THAT THE QUALIFIED TAXPAYER MAY CLAIM PURSUANT TO THIS SECTION IS THE AMOUNT STATED ON THE TAX CREDIT CERTIFICATE.

(6) THE DEPARTMENT OF AGRICULTURE SHALL ISSUE CERTIFICATES FOR CREDIT CLAIMS RECEIVED IN THE ORDER SUBMITTED, BUT SHALL NOT ISSUE CREDIT CERTIFICATES THAT EXCEED THREE MILLION DOLLARS IN A CALENDAR YEAR. AFTER CERTIFICATES HAVE BEEN ISSUED FOR CREDITS IN AN AGGREGATE AMOUNT OF THREE

MILLION DOLLARS FOR ALL QUALIFIED TAXPAYERS DURING A CALENDAR YEAR, ANY ADDITIONAL CLAIMS MUST BE PLACED ON A WAIT LIST, WITH PRIORITY FIRST GIVEN TO A QUALIFIED TAXPAYER WHO HAS BEEN ISSUED A TAX CERTIFICATE IN THE CALENDAR YEAR PRECEDING THE CALENDAR YEAR IN WHICH THE QUALIFIED TAXPAYER IS PLACED ON THE WAIT LIST AND SECOND TO A QUALIFIED TAXPAYER WHO APPLIED FOR THE TAX CREDIT AUTHORIZED IN THIS SECTION BUT WAS PLACED ON THE WAIT LIST, AND A CERTIFICATE MUST BE ISSUED FOR USE OF THE CREDIT IN THE NEXT CALENDAR YEAR; EXCEPT THAT NO MORE THAN TWO MILLION DOLLARS IN CLAIMS SHALL BE PLACED ON THE WAIT LIST IN ANY GIVEN CALENDAR YEAR. NO CLAIM FOR A CREDIT IS ALLOWED FOR ANY INCOME TAX YEAR UNLESS A CERTIFICATE HAS BEEN ISSUED BY THE DIVISION. IF ALL OTHER REQUIREMENTS OF THIS SECTION ARE MET, THE RIGHT TO CLAIM THE CREDIT IS VESTED IN A QUALIFIED TAXPAYER AT THE TIME A CREDIT CERTIFICATE IS ISSUED.

(7) IF AN INCOME TAX CREDIT AUTHORIZED IN THIS SECTION EXCEEDS THE INCOME TAX DUE ON THE INCOME OF THE QUALIFIED TAXPAYER FOR THE TAXABLE YEAR, THE EXCESS CREDIT MAY NOT BE CARRIED FORWARD AND MUST BE REFUNDED TO THE QUALIFIED TAXPAYER.

(8) THE COMMISSIONER OF THE DEPARTMENT OF AGRICULTURE MAY ISSUE RULES TO ADMINISTER THIS SECTION, INCLUDING SPECIFYING REQUIREMENTS FOR IMPLEMENTING AND DEMONSTRATING QUALIFIED STEWARDSHIP PRACTICES, AND MAY ISSUE TAX CREDIT CERTIFICATES PURSUANT TO THIS SECTION. BEFORE PROMULGATING ANY RULES, THE COMMISSIONER SHALL INITIATE A PUBLIC STAKEHOLDER PROCESS TO ADVISE THE COMMISSIONER ABOUT THE REQUIREMENTS FOR IMPLEMENTING AND DEMONSTRATING QUALIFIED STEWARDSHIP PRACTICES.

(9) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31, 2034.

SECTION 2. Appropriation. For the 2024-25 state fiscal year, \$17,117 is appropriated to the department of agriculture for use by the agricultural services division. This appropriation is from the general fund and is based on an assumption that the division will require an additional 0.1 FTE. To implement this act, the division may use this appropriation for the conservation services division.

SECTION 3. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 24, 2024