

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0501.01 Esther van Mourik x4215

SENATE BILL 16-036

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SENATE SPONSORSHIP

Neville T. and Jahn,

HOUSE SPONSORSHIP

Kraft-Tharp and Keyser,

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Senate Committees  
Finance

House Committees

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A BILL FOR AN ACT

101 CONCERNING SURETY REQUIREMENTS WHEN A TAXPAYER APPEALS A  
102 TAX BILL THAT THE STATE OR A LOCAL GOVERNMENT CLAIMS IS  
103 DUE.

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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://www.leg.state.co.us/billsummaries>.)*

Current law requires a taxpayer wishing to appeal to the district court a final determination of the executive director of the department of revenue or a final determination of a local government, within a specified time after filing a notice of appeal, to either:

! Set aside twice the amount of the taxes, interest, and other

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

charges stated in the final determination by filing a surety bond in such amount with the district court;

! Set aside twice the amount of the taxes, interest, and other charges stated in the final determination by establishing a savings account, deposit account, or certificate of deposit for such amount at a state or national bank or a state or federal savings and loan association doing business in this state; or

! Deposit the disputed amount with the executive director of the department of revenue. If the taxpayer chooses this option, the interest accrual is tolled.

Current law also requires home rule jurisdictions and statutory local governments to follow the same requirements for appeals to district courts related to the sales and use taxes they impose.

The bill repeals that requirement for everything but an appeal of a final determination by the executive director for frivolous submissions and instead specifies that if the taxpayer wishes to appeal a district court ruling then within a specified number of days after the district court ruling the taxpayer must set aside money in one of the ways described above.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-21-105, **amend**  
3 (4) (a) and (7) as follows:

4 **39-21-105. Appeals.** (4) (a) Within fifteen days after filing the  
5 notice of appeal FROM A DECISION PURSUANT TO SECTION 39-21-104.5, the  
6 taxpayer shall file with the district court a surety bond in twice the  
7 amount of the taxes, interest, and other charges stated in the final  
8 determination by the executive director which are contested on appeal.  
9 The taxpayer may, at his option, satisfy the surety bond requirement by  
10 a savings account or deposit in or a certificate of deposit issued by a state  
11 or national bank or by a state or federal savings and loan association, in  
12 accordance with the provisions of section 11-35-101 (1), C.R.S., equal to  
13 twice the amount of the taxes, interest, and other charges stated in the  
14 final determination by the executive director.

1           (7) (a) The decision of the district court ~~shall be~~ IS reviewable by  
2 the supreme court or the court of appeals as is otherwise provided by law;  
3 EXCEPT THAT C.R.C.P. 62 AND C.R.C.P. 121 SECTION 1-23 SHALL NOT  
4 APPLY. IF THE TAXPAYER WISHES TO SEEK REVIEW OF A DISTRICT COURT  
5 RULING THAT IS ADVERSE TO THE TAXPAYER IN PART OR IN WHOLE, NO  
6 LATER THAN FOURTEEN DAYS AFTER THE RULING THE TAXPAYER SHALL:

7           (I) FILE WITH THE DISTRICT COURT A SURETY BOND IN TWICE THE  
8 AMOUNT OF THE TAXES, INTEREST, AND OTHER CHARGES STATED AS DUE  
9 IN THE DISTRICT COURT RULING, WHICH ARE CONTESTED ON APPEAL;

10          (II) DEPOSIT IN A SAVINGS ACCOUNT OR DEPOSIT ACCOUNT HELD  
11 IN, OR PURCHASE A CERTIFICATE OF DEPOSIT ISSUED BY, A STATE OR  
12 NATIONAL BANK OR BY A STATE OR FEDERAL SAVINGS AND LOAN  
13 ASSOCIATION, IN ACCORDANCE WITH THE PROVISIONS OF SECTION  
14 11-35-101 (1), C.R.S., AN AMOUNT EQUAL TO TWICE THE AMOUNT OF THE  
15 TAXES, INTEREST, AND OTHER CHARGES STATED IN THE DISTRICT COURT  
16 RULING; OR

17          (III) DEPOSIT THE AMOUNT STATED AS DUE IN THE DISTRICT COURT  
18 RULING WITH THE EXECUTIVE DIRECTOR.

19          (b) UPON THE TAXPAYER FULFILLING THE APPEAL REQUIREMENTS  
20 SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (7), COLLECTION ON THE  
21 JUDGMENT IS STAYED DURING THE PENDENCY OF THE ACTION.

22          (c) IF THE TAXPAYER DEPOSITS THE AMOUNT STATED AS DUE IN  
23 THE DISTRICT COURT RULING WITH THE EXECUTIVE DIRECTOR AS SPECIFIED  
24 IN SUBPARAGRAPH (III) OF PARAGRAPH (a) OF THIS SUBSECTION (7), NO  
25 FURTHER INTEREST SHALL ACCRUE ON THE AMOUNT DEPOSITED DURING  
26 THE PENDENCY OF THE ACTION. AT THE CONCLUSION OF THE ACTION,  
27 AFTER APPEAL TO THE SUPREME COURT OR THE COURT OF APPEALS OR

1 AFTER THE TIME FOR SUCH APPEAL HAS EXPIRED, THE FUNDS DEPOSITED  
2 MUST BE, AT THE DIRECTION OF THE COURT, EITHER RETAINED BY THE  
3 EXECUTIVE DIRECTOR AND APPLIED AGAINST THE DEFICIENCY OR  
4 RETURNED IN WHOLE OR IN PART TO THE TAXPAYER WITH INTEREST AT THE  
5 RATE IMPOSED UNDER SECTION 39-21-110.5. NO CLAIM FOR REFUND OF  
6 AMOUNTS DEPOSITED WITH THE EXECUTIVE DIRECTOR NEED BE MADE BY  
7 THE TAXPAYER IN ORDER FOR SUCH AMOUNTS TO BE REPAID IN  
8 ACCORDANCE WITH THE DIRECTION OF THE COURT.

9 **SECTION 2.** In Colorado Revised Statutes, 11-35-101, **amend**  
10 (1) as follows:

11 **11-35-101. Alternatives to surety bonds permitted -**  
12 **requirements.** (1) The requirement of a surety bond as a condition to  
13 licensure or authority to conduct business or perform duties in this state  
14 provided in sections 12-5.5-202 (2) (b), 12-6-111, 12-6-112, 12-6-112.2,  
15 12-6-512, 12-6-513, 12-14-124 (1), 12-59-115 (1), 12-60-509 (2.5) (b),  
16 12-61-907, 33-4-101 (1), 33-12-104 (1), 35-55-104 (1), 37-91-107 (2) and  
17 (3), 38-29-119 (2), 39-21-105, ~~(4)~~, 39-27-104 (2) (a), (2) (b), (2) (c), (2)  
18 (d), (2) (e), (2.1) (a), (2.1) (b), (2.1) (c), (2.5) (a), and (2.5) (b), 39-28-105  
19 (1), 42-6-115 (3), and 42-7-301 (6), C.R.S., may be satisfied by a savings  
20 account or deposit in or a certificate of deposit issued by a state or  
21 national bank doing business in this state or by a savings account or  
22 deposit in or a certificate of deposit issued by a state or federal savings  
23 and loan association doing business in this state. Such savings account,  
24 deposit, or certificate of deposit shall be in the amount specified by  
25 statute, if any, and shall be assigned to the appropriate state agency for the  
26 use of the people of the state of Colorado. The aggregate liability of the  
27 bank or savings and loan association shall in no event exceed the amount

1 of the deposit. For the purposes of the sections referred to in this section,  
2 "bond" includes the savings account, deposit, or certificate of deposit  
3 authorized by this section.

4 **SECTION 3.** In Colorado Revised Statutes, 29-2-106, **amend** (8)  
5 as follows:

6 **29-2-106. Collection - administration - enforcement.**  
7 **(8) Uniform collection procedures.** Each home rule city, town, and city  
8 and county shall follow, and conform its ordinances where necessary to,  
9 the statute of limitations applicable to the enforcement of state sales and  
10 use tax collections, the statute of limitations applicable to refunds of state  
11 sales and use taxes, the amount of penalties and interest payable on  
12 delinquent remittances of state sales and use taxes, and the posting of  
13 bonds pursuant to section 39-21-105, ~~(4)~~, C.R.S.

14 **SECTION 4.** In Colorado Revised Statutes, 29-2-106.1, **amend**  
15 (3) (b) and (3) (c) as follows:

16 **29-2-106.1. Deficiency notice - dispute resolution.** (3) (b) If the  
17 taxpayer requests a hearing before the executive director, then the local  
18 government whose decision is being appealed may not require a bond or  
19 payment of tax in lieu thereof; ~~until thirty days after the final decision of~~  
20 ~~the executive director or his delegate;~~ but such local government may  
21 require a bond or payment of tax in lieu thereof FILED WITH AND PAYABLE  
22 TO THE LOCAL GOVERNMENT in the manner provided in section  
23 39-21-111, C.R.S., prior to the hearing before such local government or  
24 the executive director if either such local government OR THE EXECUTIVE  
25 DIRECTOR reasonably finds that collection of the tax will be jeopardized  
26 by delay or the taxpayer requests a postponement of the hearing before  
27 such local government or the executive director, other than on account of

1 a death, physical illness or injury, or catastrophe, which substantially  
2 impairs the taxpayer's ability to present his case. ~~Any such bond or~~  
3 ~~payment of tax in lieu thereof shall be filed with and payable to the local~~  
4 ~~government whose decision is being appealed, and such bond shall be~~  
5 ~~filed or such tax shall be paid in the manner provided in section~~  
6 ~~39-21-105, C.R.S.~~ In the event that payment of the tax or posting of a  
7 bond is required by the local government, the taxpayer, after payment of  
8 the tax or posting of the bond, may appeal such decision of the local  
9 government to the executive director and shall be granted an expedited  
10 hearing on such appeal pursuant to section 39-21-103 (6), C.R.S., and the  
11 executive director may affirm, reverse, or modify such decision.

12 (c) If the taxpayer appeals the decision ~~of the executive director~~  
13 ~~on the hearing~~ ISSUED pursuant to this subsection (3) ~~the district court~~ in  
14 the manner provided in section 39-21-105, C.R.S., then the ~~tax~~ TAXPAYER  
15 shall be ~~paid~~ REQUIRED TO PAY THE TAX to or POST a bond ~~shall be posted~~  
16 with the local government whose decision is being appealed in the  
17 manner provided in that section. ~~unless payment of tax or posting of bond~~  
18 ~~was previously required, in which case such previous payment or posting~~  
19 ~~shall continue in effect.~~

20 **SECTION 5. Applicability.** This act applies to appeals filed on  
21 or after the effective date of this act.

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