

First Extraordinary Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 20B-0054.01 Megan Waples x4348

HOUSE BILL 20B-1006

HOUSE SPONSORSHIP

Arndt,

SENATE SPONSORSHIP

(None),

House Committees
Finance

Senate Committees

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.

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, and estimated taxes shall be paid on
13 the basis of such adjusted estimates.

14 (d) Adjustments in payments of estimated taxes for any calendar
15 year shall be made at the time of the filing of the annual statement
16 required under section 10-3-208 and the payment of taxes required by this
17 section. IF, UPON THE FILING OF THE ANNUAL STATEMENT, A COMPANY
18 HAS OVERPAID ITS TAXES FOR ANY CALENDAR YEAR, THE COMPANY MAY
19 EITHER APPLY THE OVERPAYMENT TO ITS CALENDAR QUARTER ESTIMATES
20 OF TAXES IN A SUBSEQUENT CALENDAR YEAR OR CLAIM A REFUND FOR THE
21 AMOUNT OF THE OVERPAYMENT; EXCEPT THAT THE COMPANY MAY NOT
22 CLAIM A REFUND FOR ANY OVERPAYMENT THAT IS THE RESULT OF
23 CLAIMING A NONREFUNDABLE TAX CREDIT. If a company claims a refund,
24 it shall file for such refund at the time of filing such annual statement,
25 and, if the commissioner claims a deficiency, ~~he~~ THE COMMISSIONER shall
26 notify the deficient company thereof.

27 **SECTION 2.** In Colorado Revised Statutes, 24-36-203, **amend**

1 (10) as follows:

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

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

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

15 **24-36-206. Small business recovery tax credits - authorization**
16 **to issue - terms - report.** (6) On receipt of payment of the sale proceeds,
17 the department shall issue to each qualified taxpayer a tax credit
18 certificate. The tax credit certificate must state all of the following:

19 (e) The procedures to be used for transferring or assuming the tax
20 credits in accordance with subsection (7)(e) of this section or section
21 24-36-207 (6), OR BETWEEN AFFILIATES AS DEFINED IN SECTION 10-3-801
22 (1);

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

25 **24-36-207. Use of small business recovery tax credits - carry**
26 **over.** (1) For a tax credit certificate issued in fiscal year 2020-21:

27 (a) ~~In calendar~~ BEGINNING IN FISCAL year 2026, the qualified

1 taxpayer may claim up to fifty percent of the credit against premium tax
2 liability ~~incurred for a taxable year that begins on or after January 1, 2025~~
3 ON ITS CALENDAR QUARTER ESTIMATED TAX PAYMENTS MADE IN
4 ACCORDANCE WITH SECTION 10-3-209; and

5 (b) Beginning in ~~calendar~~ FISCAL year 2027, the qualified taxpayer
6 may claim the remaining amount of the credit against premium tax
7 liability ~~incurred for a taxable year that begins on or after January 1, 2026~~
8 ON ITS CALENDAR QUARTER ESTIMATED TAX PAYMENTS MADE IN
9 ACCORDANCE WITH SECTION 10-3-209.

10 (2) For a tax credit certificate issued in fiscal year 2021-22,
11 beginning in ~~calendar~~ FISCAL year 2028, the qualified taxpayer may claim
12 the credit against premium tax liability ~~incurred for a taxable year that~~
13 ~~begins on or after January 1, 2027~~ ON ITS CALENDAR QUARTER ESTIMATED
14 TAX PAYMENTS MADE IN ACCORDANCE WITH SECTION 10-3-209.

15 **SECTION 5.** In Colorado Revised Statutes, 39-22-2102, **amend**
16 (6) as follows:

17 **39-22-2102. Credit against tax - affordable housing**
18 **developments.** (6) The allocated credit amount may be taken against ~~the~~
19 ESTIMATED AND ANNUAL taxes imposed by this ~~article~~ ARTICLE 22 for
20 each taxable year of the credit period. Any amount of credit that exceeds
21 the tax due for a taxable year may be carried forward as a tax credit
22 against subsequent years' ESTIMATED AND ANNUAL income tax liability up
23 to eleven tax years following the tax year in which the allocation was
24 made and must be applied first to the earliest years possible. Any amount
25 of the credit that is not used shall not be refunded to the taxpayer.

26 **SECTION 6.** In Colorado Revised Statutes, 39-22-2105, **amend**
27 (1) as follows:

1 **39-22-2105. Parallel credits - insurance premium taxes.**

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

14 **SECTION 7. Safety clause.** The general assembly hereby finds,
15 determines, and declares that this act is necessary for the immediate
16 preservation of the public peace, health, or safety.