

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

ENGROSSED

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

LLS NO. 23-0865.01 Alison Killen x4350

HOUSE BILL 23-1240

HOUSE SPONSORSHIP

Brown and Amabile,

SENATE SPONSORSHIP

Fenberg,

House Committees

Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A SALES AND USE TAX EXEMPTION FOR CONSTRUCTION**
102 **AND BUILDING MATERIALS USED FOR REPAIRING AND**
103 **REBUILDING RESIDENTIAL STRUCTURES DAMAGED OR**
104 **DESTROYED BY A DECLARED WILDFIRE DISASTER IN 2020, 2021,**
105 **OR 2022, AND, IN CONNECTION THEREWITH, MAKING AN**
106 **APPROPRIATION.**

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>.)

Section 1 of the bill creates a state sales and use tax exemption for

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

HOUSE
Amended 2nd Reading
April 20, 2023

construction and building materials purchased on or after January 1, 2020, but before July 1, 2025, to be used directly in rebuilding or repairing a residential structure damaged or destroyed by a declared wildfire disaster in calendar year 2020, 2021, or 2022 (wildfire rebuild exemption).

A homeowner, or a contractor employed by a homeowner, may obtain a wildfire rebuild exemption certificate from the local government authorized to issue a building permit in the area in which the residential structure to be repaired or rebuilt is located. To be qualified, a homeowner must certify that:

- The homeowner was the owner of each residential structure to be repaired or rebuilt at the time the structure was damaged or destroyed by the declared wildfire disaster; and
- The replacement cost for each residential structure to be repaired or rebuilt exceeds the homeowner's coverage under any homeowner's insurance policy associated with the structure.

To claim the exemption, the qualified homeowner, or contractor employed by such homeowner, must provide a copy of the wildfire rebuild exemption certificate to each retailer from which the homeowner or contractor purchases exempt construction or building materials. If a qualified homeowner, or contractor employed by such homeowner, has paid state sales or use tax on the purchase of exempt construction or building materials on or after January 1, 2020, but before July 1, 2025, then the person who made the purchase may apply to the department of revenue for a refund pursuant to existing sales and use tax refund procedures. Alternatively, if the purchaser-contractor has not been granted a refund, the homeowner for whom the exempt materials were purchased may apply for a refund by establishing certain existing statutory requirements are met.

Sections 2 and 3 include the wildfire rebuild exemption among other exemptions available to state-collected and administered local sales and use tax jurisdictions, including statutory cities and counties, for adoption at their discretion.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 39-26-734 as
3 follows:

4 **39-26-734. Rebuilding from declared wildfire disaster - tax**
5 **preference performance statement - legislative declaration -**
6 **definitions - repeal.** (1) IN ACCORDANCE WITH SECTION 39-21-304 (1),

1 WHICH REQUIRES EACH BILL THAT CREATES A NEW TAX EXPENDITURE TO
2 INCLUDE A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A
3 STATUTORY LEGISLATIVE DECLARATION, THE GENERAL ASSEMBLY HEREBY
4 FINDS AND DECLARES THAT:

5 (a) THE GENERAL LEGISLATIVE PURPOSE OF THE EXEMPTION
6 ALLOWED BY THIS SECTION IS TO PROVIDE TAX RELIEF FOR CERTAIN
7 INDIVIDUALS;

8 (b) THE SPECIFIC LEGISLATIVE PURPOSE OF THE EXEMPTION
9 ALLOWED BY THIS SECTION IS TO PROVIDE FINANCIAL RELIEF TO
10 COLORADANS RECOVERING AND REBUILDING FROM DECLARED WILDFIRE
11 DISASTERS; AND

12 (c) THE GENERAL ASSEMBLY AND THE STATE AUDITOR SHALL
13 MEASURE THE EFFECTIVENESS OF THE EXEMPTION ALLOWED BY THIS
14 SECTION BASED ON THE NUMBER OF WILDFIRE EXEMPTION CERTIFICATES
15 ISSUED PURSUANT TO SUBSECTION (5) OF THIS SECTION, THE NUMBER AND
16 AMOUNT OF ALL REFUND CLAIMS ALLOWED PURSUANT TO THIS
17 SECTION, AND AN ESTIMATE BY THE STATE AUDITOR OF THE PROPORTION
18 OF HOMEOWNERS AFFECTED BY DECLARED WILDFIRE DISASTERS WHO
19 BENEFITTED FROM THE EXEMPTION IN THE REBUILDING OR REPAIRING OF
20 THEIR HOMES.

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

23 (a) "BUILDING PERMIT" MEANS THE DOCUMENT OR DOCUMENTS
24 ISSUED BY A LOCAL GOVERNMENT TO A QUALIFIED HOMEOWNER SHOWING
25 THE ESTIMATED AMOUNT OF USE TAX COLLECTED, IF ANY, IN CONNECTION
26 WITH REBUILDING OR REPAIRING THE QUALIFIED HOMEOWNER'S QUALIFIED
27 RESIDENTIAL STRUCTURE.

1 (b) "DECLARED WILDFIRE DISASTER" MEANS A WILDFIRE THAT WAS
2 DECLARED A DISASTER EMERGENCY BY THE GOVERNOR PURSUANT TO
3 SECTION 24-33.5-704 (4) ON OR AFTER JANUARY 1, 2020, BUT BEFORE
4 JANUARY 1, 2023.

5 (c) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

6 (d) "ESTIMATED CONSTRUCTION AND BUILDING MATERIALS COST"
7 MEANS THE COST AMOUNT USED BY THE LOCAL GOVERNMENT TO COLLECT
8 ESTIMATED USE TAX IN CONNECTION WITH THE ISSUANCE OF A BUILDING
9 PERMIT. IF NO ESTIMATED USE TAX HAS BEEN COLLECTED, "ESTIMATED
10 CONSTRUCTION AND BUILDING MATERIALS COST" MEANS HALF OF THE
11 TOTAL CONTRACT PRICE OR TOTAL COST FOR REBUILDING OR REPAIRING
12 A QUALIFIED RESIDENTIAL STRUCTURE.

13 (e) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF
14 THE DEPARTMENT OF REVENUE.

15 (f) "LOCAL GOVERNMENT" MEANS A COUNTY, CITY AND COUNTY,
16 OR MUNICIPALITY.

17 (g) "QUALIFIED HOMEOWNER" MEANS A HOMEOWNER THAT IS
18 REBUILDING OR REPAIRING OR HAS EMPLOYED A CONTRACTOR TO REBUILD
19 OR REPAIR A QUALIFIED RESIDENTIAL STRUCTURE THAT THE HOMEOWNER
20 OWNED AT THE TIME OF A DECLARED WILDFIRE DISASTER.

21 (h) "QUALIFIED RESIDENTIAL STRUCTURE" MEANS A RESIDENTIAL
22 STRUCTURE THAT WAS DAMAGED OR DESTROYED BY A DECLARED
23 WILDFIRE DISASTER.

24 (i) "WILDFIRE REBUILD EXEMPTION CERTIFICATE" MEANS A
25 WRITTEN CERTIFICATION PROVIDED BY A LOCAL GOVERNMENT TO A
26 QUALIFIED HOMEOWNER THAT CERTIFIES THAT ONE OR MORE
27 BUILDING PERMITS SPECIFICALLY IDENTIFIED THEREIN HAVE BEEN ISSUED

1 TO THE QUALIFIED HOMEOWNER FOR REBUILDING OR REPAIRING A
2 QUALIFIED RESIDENTIAL STRUCTURE.

3

4 (3) (a) THE SALE, STORAGE, USE, OR CONSUMPTION OF
5 CONSTRUCTION AND BUILDING MATERIALS USED DIRECTLY IN REBUILDING
6 OR REPAIRING A QUALIFIED HOMEOWNER'S QUALIFIED RESIDENTIAL
7 STRUCTURE IS EXEMPT FROM TAXATION UNDER PARTS 1 AND 2 OF THIS
8 ARTICLE 26 AS SET FORTH IN THIS SECTION.

9 (b) THE EXEMPTION CREATED IN SUBSECTION (3)(a) OF THIS
10 SECTION SHALL BE ADMINISTERED SOLELY AS A REFUND ALLOWED TO
11 QUALIFIED HOMEOWNERS TO BE APPLIED FOR IN ACCORDANCE WITH THIS
12 SECTION AND SECTION 39-26-703. NO RETAILER MAY EXEMPT ANY SALE
13 PURSUANT TO THIS SECTION.

14 (c) THE EXEMPTION CREATED IN SUBSECTION (3)(a) OF THIS
15 SECTION APPLIES ONLY TO THE STATE SALES AND USE TAXES LEVIED
16 PURSUANT TO THIS ARTICLE 26. NOTWITHSTANDING ANY OTHER
17 PROVISION OF LAW, THE EXEMPTION SHALL NOT APPLY TO THE SALES OR
18 USE TAXES LEVIED BY ANY LOCAL GOVERNMENT, INCLUDING ANY CITY,
19 TOWN, COUNTY, SPECIAL PURPOSE DISTRICT, OR LIMITED PURPOSE
20 GOVERNMENTAL ENTITY.

21 (4) (a) A QUALIFIED HOMEOWNER MAY CLAIM A REFUND ALLOWED
22 PURSUANT TO SUBSECTION (3) OF THIS SECTION FOR EACH QUALIFIED
23 RESIDENTIAL STRUCTURE FOR WHICH THE QUALIFIED HOMEOWNER
24 OBTAINS A BUILDING PERMIT AND A WILDFIRE REBUILD EXEMPTION
25 CERTIFICATE ISSUED BY A LOCAL GOVERNMENT IN ACCORDANCE WITH
26 SUBSECTION (5) OF THIS SECTION.

27 (b) THE AMOUNT OF A REFUND CLAIMED PURSUANT TO THIS

1 SECTION SHALL BE EQUAL TO TWO AND NINETY-ONE HUNDREDTHS
2 PERCENT OF THE ESTIMATED CONSTRUCTION AND BUILDING MATERIALS
3 COST FOR REPAIRING OR REBUILDING THE QUALIFIED RESIDENTIAL
4 STRUCTURE THAT IS THE SUBJECT OF THE BUILDING PERMIT AND WILDFIRE
5 REBUILD EXEMPTION CERTIFICATE.

6 (c) A QUALIFIED HOMEOWNER MUST SUBMIT A CLAIM FOR REFUND
7 ON THE FORM AND IN THE MANNER PRESCRIBED BY THE EXECUTIVE
8 DIRECTOR. THE CLAIM FOR REFUND MUST INCLUDE THE WILDFIRE REBUILD
9 EXEMPTION CERTIFICATE ISSUED IN ACCORDANCE WITH SUBSECTION (5) OF
10 THIS SECTION AND A TRUE AND CORRECT COPY OF EACH BUILDING PERMIT
11 IDENTIFIED IN THE WILDFIRE REBUILD EXEMPTION CERTIFICATE.

12 (d) THE THREE-YEAR APPLICATION DEADLINE IN SECTION
13 39-26-703 (2)(d) FOR A SALES TAX REFUND OR REFUND OF ANY USE TAX
14 COLLECTED BY A VENDOR DOES NOT APPLY TO A CLAIM FOR REFUND MADE
15 PURSUANT TO THIS SECTION. A CLAIM FOR REFUND MADE PURSUANT TO
16 THIS SECTION MUST BE FILED ON OR BEFORE JUNE 30, 2028.

17 (5) (a) THE LOCAL GOVERNMENT WITH JURISDICTION TO ISSUE A
18 BUILDING PERMIT IN AN AREA AFFECTED BY A DECLARED WILDFIRE
19 DISASTER MAY ISSUE A WILDFIRE REBUILD EXEMPTION CERTIFICATE TO A
20 QUALIFIED HOMEOWNER. A WILDFIRE REBUILD EXEMPTION CERTIFICATE
21 MUST CLEARLY IDENTIFY THE QUALIFIED HOMEOWNER, THE CONTRACTOR
22 EMPLOYED BY THE HOMEOWNER, IF APPLICABLE, AND EACH BUILDING
23 PERMIT ISSUED BY THE LOCAL GOVERNMENT TO THE QUALIFIED
24 HOMEOWNER FOR REBUILDING OR REPAIRING A QUALIFIED RESIDENTIAL
25 STRUCTURE.

26 (b) TO OBTAIN A WILDFIRE REBUILD EXEMPTION CERTIFICATE, A
27 HOMEOWNER MUST CERTIFY, IN A FORM PRESCRIBED BY THE EXECUTIVE

1 DIRECTOR, THAT:

2 (I) THE HOMEOWNER WAS THE OWNER OF EACH QUALIFIED
3 RESIDENTIAL STRUCTURE TO BE REBUILT OR REPAIRED AT THE TIME THE
4 STRUCTURE WAS DAMAGED OR DESTROYED BY THE DECLARED WILDFIRE
5 DISASTER; AND

6 (II) THE REPLACEMENT COST FOR EACH QUALIFIED RESIDENTIAL
7 STRUCTURE TO BE REBUILT OR REPAIRED EXCEEDS THE HOMEOWNER'S
8 COVERAGE UNDER ANY HOMEOWNER'S INSURANCE POLICY ASSOCIATED
9 WITH THE STRUCTURE.

10 (c) ON OR BEFORE SEPTEMBER 30, 2023, AND ON OR BEFORE
11 SEPTEMBER 30 OF EACH CALENDAR YEAR THEREAFTER THROUGH
12 SEPTEMBER 30, 2025, A LOCAL GOVERNMENT SHALL PROVIDE THE
13 DEPARTMENT WITH AN ELECTRONIC REPORT OF THE NUMBER OF WILDFIRE
14 REBUILD EXEMPTION CERTIFICATES ISSUED BY THE LOCAL GOVERNMENT
15 FOR THE PRECEDING CALENDAR YEAR.

16 ■ ■

17 (6) THE EXECUTIVE DIRECTOR SHALL:

18 (a) PROVIDE A FORM FOR THE WILDFIRE REBUILD EXEMPTION
19 CERTIFICATE TO THE PROPER OFFICIAL OF THE LOCAL GOVERNMENT WITH
20 JURISDICTION TO ISSUE A BUILDING PERMIT IN AN AREA AFTER
21 DETERMINING THAT THE AREA WAS AFFECTED BY A DECLARED WILDFIRE
22 DISASTER;

23 (b) MODIFY EXISTING FORMS OR CREATE NEW FORMS AS
24 NECESSARY TO FACILITATE REFUND CLAIMS MADE PURSUANT TO ■ THIS
25 SECTION; AND

26 (c) ADOPT RULES FOR THE ADMINISTRATION AND ENFORCEMENT
27 OF THIS SECTION.

1 (7) IN MAKING A REFUND OR ALLOWING A CREDIT PURSUANT TO
2 SECTION 39-26-703, THE DEPARTMENT SHALL PRIORITIZE APPLICATIONS
3 FOR REFUNDS SUBMITTED PURSUANT TO THIS SECTION OVER REFUND
4 APPLICATIONS SUBMITTED PURSUANT TO OTHER PROVISIONS OF LAW.

5 (8) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2028.

6

7 **SECTION 2.** In Colorado Revised Statutes, 39-26-703, **amend**
8 (2)(d) as follows:

9 **39-26-703. Disputes and refunds - repeal.** (2) (d) An
10 application for refund under subsection (2)(c) or (2)(c.5) of this section
11 must be made within the applicable deadline and must be made on forms
12 prescribed and furnished by the executive director of the department of
13 revenue, which form must contain, in addition to the foregoing
14 information, such other pertinent data, information, or documentation as
15 the executive director prescribes by rules promulgated in accordance with
16 article 4 of title 24. Except as set forth in ~~section~~ SECTIONS 29-2-106.1
17 (5)(b) AND 39-26-734 (4)(d), the deadline for a sales tax refund or a
18 refund of any use tax collected by a vendor is three years after the
19 twentieth day of the month following the date of purchase and the
20 deadline for any other use tax refund is three years after the twentieth day
21 of the month following the initial date of the storage, use, or consumption
22 in the state by the person applying for the refund.

23 **SECTION 3. Appropriation.** (1) For the 2023-24 state fiscal
24 year, \$98,136 is appropriated to the department of revenue for use by
25 taxation services. This appropriation is from the general fund. To
26 implement this act, the subdivision may use this appropriation as follows:

27 (a) \$89,711 for personal services, which amount is based on an

1 assumption that the subdivision will require an additional 1.3 FTE; and

2 (b) \$8,425 for operating expenses.

3 **SECTION 4. Safety clause.** The general assembly hereby finds,
4 determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, or safety.