

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

DRAFT
10/3/23

BILL 8

LLS NO. 24-0390.01 Jason Gelender x4330

INTERIM COMMITTEE BILL

Legislative Oversight Committee Concerning Tax Policy

BILL TOPIC: Income Tax Credit For Unreimbursed Disaster Losses

A BILL FOR AN ACT

101 **CONCERNING A STATE INCOME TAX CREDIT FOR INDIVIDUALS WHO**
102 **INCUR UNREIMBURSED CASUALTY LOSSES RESULTING FROM A**
103 **DECLARED DISASTER.**

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/>.)

Legislative Oversight Committee Concerning Tax Policy. For income tax years commencing on or after January 1, 2024, but before January 1, 2029, the bill allows an individual who incurred one or more unreimbursed casualty losses resulting from a declared disaster during the income tax year or the 3 prior income tax years a refundable state income

*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words indicate deletions from existing law.*

tax credit in an amount equal to the lesser of the total amount of all unreimbursed casualty losses or \$500. However, only one credit may be claimed per primary residence even if multiple individuals who file separate income tax returns reside at the residence.

For purposes of the bill:

- A "declared disaster" is a disaster emergency declared by executive order or proclamation of the governor or a local disaster declared by the principal executive officer of a political subdivision;
- A "casualty loss" is damage, destruction, or loss of real property that is an individual's primary residence and that was damaged, destroyed, or lost as a result of a declared disaster that occurred within the area specified in the declaration of the declared disaster and any personal property that was located on such real property and that was also damaged, destroyed, or lost as a result of the declared disaster; and
- An "unreimbursed casualty loss" is a casualty loss or portion of a casualty loss for which an individual has not received reimbursement through an insurance policy, through the adjudication or settlement of a lawsuit, or from any federal, state, or local government department, agency, or program.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 39-22-560 as
3 follows:

4 **39-22-560. Tax credit for unreimbursed casualty losses due to**
5 **a declared disaster - tax preference performance statement -**
6 **legislative declaration - definitions - repeal.** (1) (a) IN ACCORDANCE
7 WITH SECTION 39-21-304 (1), WHICH REQUIRES EACH BILL THAT CREATES
8 A NEW TAX EXPENDITURE TO INCLUDE A TAX PREFERENCE PERFORMANCE
9 STATEMENT AS PART OF A STATUTORY LEGISLATIVE DECLARATION, THE
10 GENERAL ASSEMBLY FINDS AND DECLARES THAT THE PURPOSE OF THE TAX
11 CREDIT PROVIDED IN THIS SECTION IS TO PROVIDE TAX RELIEF TO
12 INDIVIDUALS WHO HAVE INCURRED UNREIMBURSED CASUALTY LOSSES

1 RESULTING FROM A DECLARED DISASTER.

2 (b) THE GENERAL ASSEMBLY AND THE STATE AUDITOR SHALL
3 MEASURE THE EFFECTIVENESS OF THE CREDIT IN ACHIEVING THE PURPOSE
4 SPECIFIED IN SUBSECTION (1)(a) OF THIS SECTION BASED ON THE NUMBER
5 AND TOTAL AMOUNT OF CREDITS ALLOWED.

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

8 (a) "CASUALTY LOSS" MEANS DAMAGE, DESTRUCTION, OR LOSS OF
9 AN INDIVIDUAL'S PRIMARY RESIDENCE AS A RESULT OF A DECLARED
10 DISASTER THAT OCCURS WITHIN THE AREA SPECIFIED IN THE DECLARATION
11 OF THE DECLARED DISASTER AS WELL AS ANY PERSONAL PROPERTY AT THE
12 PRIMARY RESIDENCE THAT WAS ALSO DAMAGED, DESTROYED, OR LOST AS
13 A RESULT OF THE DECLARED DISASTER.

14 (b) "DECLARED DISASTER" MEANS A "DISASTER", AS DEFINED IN
15 SECTION 24-33.5-703 (3), THAT IS A DISASTER EMERGENCY DECLARED BY
16 EXECUTIVE ORDER OR PROCLAMATION OF THE GOVERNOR AS AUTHORIZED
17 BY SECTION 24-33.5-704 (4) OR A LOCAL DISASTER DECLARED BY THE
18 PRINCIPAL EXECUTIVE OFFICER OF A POLITICAL SUBDIVISION AS
19 AUTHORIZED BY SECTION 24-33.5-709 (1).

20 (c) (I) "UNREIMBURSED CASUALTY LOSS" MEANS A CASUALTY
21 LOSS OR PORTION OF A CASUALTY LOSS INCURRED BY AN INDIVIDUAL FOR
22 WHICH THE INDIVIDUAL HAS NOT RECEIVED REIMBURSEMENT:

23 (A) THROUGH AN INSURANCE POLICY;

24 (B) THROUGH THE ADJUDICATION OR SETTLEMENT OF A LAWSUIT;

25 OR

26 (C) FROM ANY FEDERAL, STATE, OR LOCAL GOVERNMENT
27 DEPARTMENT, AGENCY, OR PROGRAM;

1 (II) "UNREIMBURSED CASUALTY LOSS" INCLUDES ANY PORTION OF
2 THE TOTAL AMOUNT OF A CASUALTY LOSS THAT IS NOT REIMBURSED, SUCH
3 AS A DEDUCTIBLE UNDER AN INSURANCE POLICY AND INCLUDING
4 UNREIMBURSED EXPENSES INCURRED BY AN INDIVIDUAL IN DIRECTLY
5 MITIGATING A CASUALTY LOSS SUCH AS DEBRIS REMOVAL COSTS, EVEN IF
6 AN INDIVIDUAL IS REIMBURSED FOR THE REMAINDER OF THE CASUALTY
7 LOSS.

8 (3) FOR ANY INCOME TAX YEAR COMMENCING ON OR AFTER
9 JANUARY 1, 2024, BUT BEFORE JANUARY 1, 2029, AN INDIVIDUAL WHO
10 INCURRED ONE OR MORE UNREIMBURSED CASUALTY LOSSES DURING THE
11 INDIVIDUAL'S THREE PRIOR INCOME TAX YEARS OR DURING THE INCOME
12 TAX YEAR FOR WHICH A CREDIT IS CLAIMED IS ALLOWED A CREDIT
13 AGAINST THE INCOME TAXES IMPOSED BY THIS ARTICLE 22 IN AN AMOUNT
14 EQUAL TO THE LESSER OF THE TOTAL AMOUNT OF ALL UNREIMBURSED
15 CASUALTY LOSSES OR FIVE HUNDRED DOLLARS. HOWEVER, ONLY ONE
16 CREDIT MAY BE CLAIMED PER PRIMARY RESIDENCE EVEN IF MULTIPLE
17 INDIVIDUALS WHO FILE SEPARATE INCOME TAX RETURNS RESIDE AT THE
18 RESIDENCE.

19 (4) IF THE AMOUNT OF A CREDIT AUTHORIZED BY THIS SECTION
20 EXCEEDS THE AMOUNT OF INCOME TAX DUE ON THE INCOME OF THE
21 INDIVIDUAL CLAIMING THE CREDIT, THE EXCESS CREDIT MAY NOT CARRIED
22 FORWARD AND MUST BE REFUNDED TO THE INDIVIDUAL.

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

24 **SECTION 2. Act subject to petition - effective date.** This act
25 takes effect at 12:01 a.m. on the day following the expiration of the
26 ninety-day period after final adjournment of the general assembly; except
27 that, if a referendum petition is filed pursuant to section 1 (3) of article V

1 of the state constitution against this act or an item, section, or part of this
2 act within such period, then the act, item, section, or part will not take
3 effect unless approved by the people at the general election to be held in
4 November 2024 and, in such case, will take effect on the date of the
5 official declaration of the vote thereon by the governor.