

CHAPTER 98

INSURANCE

HOUSE BILL 05-1060

BY REPRESENTATIVE(S) Marshall, Judd, Borodkin, Carroll M., Coleman, Garcia, Madden, McFadyen, Merrifield, Paccione, Boyd, and Green;
also SENATOR(S) Veiga, Evans, Hanna, Hillman, Isgar, Tupa, and Williams.

AN ACT

CONCERNING ADDITIONAL INCENTIVES TO PROMOTE THE ISSUANCE OF TAX CREDITS FOR CONTRIBUTIONS TO COVERCOLORADO.

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

SECTION 1. 10-8-534, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

10-8-534. Tax credit for contributions to CoverColorado - allocation notice - rules. (1) (a) FOR TAX YEARS 2005 THROUGH 2014 THERE SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY SECTIONS 10-3-209 AND 10-6-128 TO ANY INSURANCE COMPANY THAT BECOMES A QUALIFIED TAXPAYER BY MAKING A CONTRIBUTION TO COVERCOLORADO PURSUANT TO THIS SECTION.

(b) A QUALIFIED TAXPAYER CLAIMING A CREDIT AGAINST PREMIUM TAX LIABILITY UNDER THIS SECTION SHALL NOT BE REQUIRED TO PAY ANY ADDITIONAL RETALIATORY TAX AS A RESULT OF CLAIMING SUCH CREDIT.

(2) THE COMMISSIONER MAY PROMULGATE RULES NECESSARY FOR THE ADMINISTRATION OF THE TAX CREDIT ALLOWED BY SUBSECTION (1) OF THIS SECTION IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S.

(3) (a) SUBJECT TO PARAGRAPH (c) OF SUBSECTION (4) OF THIS SECTION, AN INSURANCE COMPANY SHALL BECOME A QUALIFIED TAXPAYER IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

(I) THE INSURANCE COMPANY DECLARES WITH ITS QUARTERLY TAX PAYMENT DUE ON OR ABOUT JULY 31 IN THE MANNER PRESCRIBED BY THE COMMISSIONER ITS INTENT

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

TO CONTRIBUTE TO COVERCOLORADO ON OR BEFORE OCTOBER 31 AN AMOUNT OF MONEY EQUAL TO THE PREMIUM TAXES PAID BY THE COMPANY PURSUANT TO THE JULY 31 TAX PAYMENT OR A LESSER AMOUNT AS SPECIFIED BY THE COMMISSIONER IF REQUIRED PURSUANT TO PARAGRAPH (b) OF SUBSECTION (4) OF THIS SECTION;

(II) THE AMOUNT OF THE TAX CREDITS GRANTED BY THE COMMISSIONER DOES NOT EXCEED THE ANNUAL MAXIMUM AGGREGATE AMOUNT SET FORTH IN SUBSECTION (4) OF THIS SECTION; AND

(III) THE INSURANCE COMPANY RECEIVES AN ALLOCATION NOTICE FROM THE COMMISSIONER AND THE INSURANCE COMPANY MAKES THE CONTRIBUTION TO COVERCOLORADO AS SPECIFIED IN THE ALLOCATION NOTICE ON OR BEFORE OCTOBER 31.

(b) SUBJECT TO PARAGRAPH (c) OF SUBSECTION (4) OF THIS SECTION, AN INSURANCE COMPANY THAT HAS BECOME A QUALIFIED TAXPAYER MAY CLAIM THE TAX CREDIT ON ONE OR MORE SUBSEQUENT QUARTERLY OR ANNUAL TAX PAYMENTS BEGINNING ON OR ABOUT OCTOBER 31.

(c) THE BOARD SHALL PROMPTLY NOTIFY THE COMMISSIONER WHEN IT RECEIVES A CONTRIBUTION PURSUANT TO THIS SECTION OF THE AMOUNT AND DATE OF THE CONTRIBUTION AND THE NAME OF THE CONTRIBUTOR.

(4) (a) SUBJECT TO PARAGRAPH (c) OF THIS SUBSECTION (4), THE COMMISSIONER SHALL BY SEPTEMBER 30:

(I) SEND AN ALLOCATION NOTICE TO EACH INSURANCE COMPANY WHOSE DECLARATION OF INTENT TO CONTRIBUTE TO COVERCOLORADO HAS BEEN ACCEPTED PURSUANT TO THIS SUBSECTION (4). THE ALLOCATION NOTICE SHALL SPECIFY THE AMOUNT OF TAX CREDITS ALLOCATED TO THE INSURANCE COMPANY AND THE AMOUNT OF CASH THE INSURANCE COMPANY MUST CONTRIBUTE TO COVERCOLORADO BY OCTOBER 31, WHICH AMOUNTS SHALL BE IDENTICAL AND NOT EXCEED THE AMOUNT OF PREMIUM TAXES PAID BY THE INSURANCE COMPANY IN ITS QUARTERLY TAX PAYMENT DUE ON OR ABOUT JULY 31; AND

(II) POST ON THE DIVISION'S WEB SITE WHETHER THE FULL AMOUNT OF TAX CREDITS AUTHORIZED TO BE ALLOCATED EACH YEAR HAS BEEN ALLOCATED.

(b) SUBJECT TO PARAGRAPH (c) OF THIS SUBSECTION (4), THE COMMISSIONER SHALL ALLOCATE NO MORE THAN FIVE MILLION DOLLARS OF PREMIUM TAX CREDITS PER YEAR OR, IF SENATE BILL 04-106 IS DECLARED TO BE UNCONSTITUTIONAL BY A FINAL JUDGMENT THAT INVALIDATES THE TAX CREDITS ENACTED BY SUCH BILL, NO MORE THAN TEN MILLION DOLLARS OF PREMIUM TAX CREDITS PER YEAR. THE COMMISSIONER SHALL ALLOCATE TO AN INSURANCE COMPANY THAT HAS DECLARED ITS INTENT TO CONTRIBUTE TO COVERCOLORADO PURSUANT TO THIS SECTION TAX CREDITS IN AN AMOUNT EQUAL TO THE AMOUNT OF PREMIUM TAXES PAID BY THE INSURANCE COMPANY IN ITS QUARTERLY TAX PAYMENT DUE ON OR ABOUT JULY 31 IN THE ORDER IN WHICH THE DIVISION RECEIVES SUCH QUARTERLY TAX PAYMENTS UNTIL THE FULL AMOUNT OF CREDITS AVAILABLE PURSUANT TO THIS SECTION HAS BEEN ALLOCATED; EXCEPT THAT, IF SUCH AMOUNT OF TAXES OR THE SUM OF ALL SUCH TAXES FILED BY ALL SUCH INSURANCE COMPANIES ON ANY ONE DAY WOULD EXCEED,

SINGLY OR IN THE AGGREGATE, THE ANNUAL MAXIMUM AGGREGATE AMOUNT OF TAX CREDITS AVAILABLE UNDER THIS SECTION, THE COMMISSIONER SHALL REDUCE THE CONTRIBUTION OF THE INSURANCE COMPANY WHOSE CONTRIBUTION FIRST EXCEEDS THE ANNUAL MAXIMUM AGGREGATE TO THE AMOUNT NEEDED TO SATISFY THE ANNUAL MAXIMUM AGGREGATE. IF THE COMMISSIONER IS UNABLE TO DETERMINE THE ORDER OF RECEIPT OF TAX PAYMENTS ON THAT DAY, THE COMMISSIONER SHALL ALLOCATE THE TAX CREDITS TO THE COMPANY OR AMONG THE COMPANIES ON A PRO RATA BASIS BASED ON THE RATIO SUCH COMPANY'S QUARTERLY TAX PAYMENT BEARS TO THE TOTAL AMOUNT OF ALL SUCH COMPANIES' QUARTERLY TAX PAYMENTS UNTIL THE FULL AMOUNT OF CREDITS AVAILABLE PURSUANT TO THIS SECTION HAS BEEN ALLOCATED.

(c) (I) THE COMMISSIONER SHALL ALLOW INSURANCE COMPANIES TO DECLARE THEIR INTENT TO CONTRIBUTE TO COVERCOLORADO PURSUANT TO THIS SECTION ON THE INSURANCE COMPANIES' QUARTERLY TAX PAYMENTS DUE ON OR ABOUT OCTOBER 31 AND SHALL SEND SUCH COMPANIES ALLOCATION NOTICES BY FEBRUARY 1 IF:

(A) THE FULL AMOUNT OF TAX CREDITS AVAILABLE IN ANY ONE YEAR HAVE NOT BEEN FULLY ALLOCATED BY THE COMMISSIONER PURSUANT TO STATEMENTS OF INTENT FILED WITH INSURANCE COMPANIES' QUARTERLY TAX PAYMENTS DUE ON OR ABOUT JULY 31; OR

(B) SUCH FULL AMOUNT HAS BEEN CLAIMED BUT ONE OR MORE INSURANCE COMPANIES FAILED TO TIMELY MAKE A CONTRIBUTION TO COVERCOLORADO.

(II) AN INSURANCE COMPANY THAT DECLARES ITS INTENT TO CONTRIBUTE TO COVERCOLORADO PURSUANT TO THIS PARAGRAPH (c) SHALL MAKE THE CONTRIBUTION TO COVERCOLORADO AS SPECIFIED IN THE ALLOCATION NOTICE ON OR BEFORE MARCH 1 AND MAY CLAIM THE TAX CREDIT ON ONE OR MORE SUBSEQUENT QUARTERLY OR ANNUAL TAX PAYMENTS DUE ON OR ABOUT MARCH 1.

(5) MONEYS CONTRIBUTED TO THE BOARD PURSUANT TO THIS SECTION AND INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF SUCH MONEYS SHALL BE USED FOR ONLY THOSE PURPOSES SPECIFIED IN SECTION 10-8-530 (1.5) AND ONLY WHEN AN ASSESSMENT WOULD OTHERWISE BE NECESSARY IN THE ABSENCE OF SUCH MONEYS AND INTEREST.

(6) OFFERS TO CONTRIBUTE TO COVERCOLORADO THAT WERE MADE PURSUANT TO THIS SECTION PRIOR TO THE EFFECTIVE DATE OF THIS SECTION, AS AMENDED, SHALL BE DEEMED TO BE OF NO EFFECT.

SECTION 2. Effective date - applicability. This act shall take effect upon passage and shall apply to tax credits applied for on or after said date.

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

Approved: April 22, 2005