

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.



HOUSE BILL 22-1328

BY REPRESENTATIVE(S) Titone and McLachlan, Amabile, Bernett, Esgar, Froelich, Herod, Hooton, Jodeh, Kipp, Lindsay, McCormick, Valdez D.;
also SENATOR(S) Donovan, Bridges, Buckner, Fields, Ginal, Gonzales, Hinrichsen, Jaquez Lewis, Lee, Pettersen, Story, Winter, Zenzinger, Fenberg.

CONCERNING MODIFICATIONS TO THE "COLORADO LOANS FOR INCREASING MAIN STREET BUSINESS ECONOMIC RECOVERY ACT".

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

SECTION 1. In Colorado Revised Statutes, 24-36-203, **amend** (4)(b) and (4)(c) as follows:

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

(4) "Eligible borrower" means a business that, as determined by the oversight board:

(b) Has at least ~~five~~ **ONE** but fewer than one hundred employees;

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(c) Can demonstrate that it had at least ~~two consecutive years~~ ONE YEAR of positive cash flow prior to February 29, 2020 AS DETERMINED BY THE OVERSIGHT BOARD; and

SECTION 2. In Colorado Revised Statutes, 24-36-205, **amend** (3)(a)(II), (3)(b), (4)(a), (4)(b) introductory portion, (4)(b)(I), (4)(b)(II), and (4)(d) as follows:

24-36-205. Small business recovery loan program - creation - requirements - oversight. (3) (a) Notwithstanding any restriction on the investment of state money set forth in section 24-36-113 or in any other provision of law, subject to the availability of money in the small business recovery fund and the requirements of this part 2:

(II) Subject to the limitations in subsection (3)(b) of this section, in fiscal ~~year~~ YEARS 2021-22, 2022-23, AND 2023-24, the state treasurer may provide up to ~~thirty~~ A TOTAL OF FORTY million dollars in first loss capital to a loan program or programs or to the Colorado credit reserve from the small business recovery fund.

(b) The money provided under this subsection (3) must be provided in tranches of ten million dollars or less, up to a maximum amount of fifty million dollars in all tranches combined across fiscal years 2020-21 ~~and 2021-22~~ THROUGH 2023-24. The state treasurer shall not provide a tranche to a loan program or to the Colorado credit reserve until at least ninety percent of the money in any prior tranche has been invested in small business loans in accordance with subsection (4) of this section, as determined by the oversight board and certified by the loan program manager. Money provided to the Colorado credit reserve is considered invested in small business loans for the purposes of this subsection (3)(b) once it is paid to the Colorado housing and finance authority.

(4) Any contract for the administration of a loan program must include the following terms in order to receive money provided by the state treasurer pursuant to subsection (3) of this section:

(a) Except for money contributed to the Colorado credit reserve, the money provided by the state treasurer in a single tranche shall not be committed pursuant to a contract relating to a loan program until money is

committed pursuant to a contract relating to a loan program from other sources at a ratio of AT LEAST four dollars from other sources for each one dollar provided by the state. If a loan program manager does not secure sufficient investments from other sources to meet this requirement within the time allowed by a contract, the money provided by the state shall be returned to the small business recovery fund.

(b) Except for money contributed to the Colorado credit reserve, once the money in a tranche is matched in accordance with subsection (4)(a) of this section, it must be used to make loans or purchase participation interest in loans for working capital, INCLUDING THE PURCHASE OF EQUIPMENT, to eligible borrowers, or other activities that accomplish the same purpose. The oversight board shall consult with lending industry leaders and representatives of small businesses with regard to subsections (4)(b)(I) to (4)(b)(VI) of this section. Each loan must be subject to the following terms:

(I) The loan must be in an amount of at least ~~thirty~~ TEN thousand dollars but not more than five hundred thousand dollars, as determined by the oversight board;

(II) The loan must have a maximum initial maturity of ~~five~~ UP TO TEN years, based on the need of the eligible borrower, with no penalty for prepayment, as determined by the oversight board. The originating lender may extend the term for purposes of restructuring the loan.

(d) (I) A loan program manager shall make every effort to achieve ~~targets~~ BENCHMARKS published by the oversight board pursuant to section 24-36-204 (8)(d) for the percentage of loans supported by the program that are made to businesses owned by SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS, INCLUDING BUSINESSES OWNED BY women, minorities, and veterans and to businesses located in rural counties. A loan program manager shall consult with the minority business office within the office of the governor and the division of business funding and incentives within the office of economic development to develop an outreach strategy for marketing the loan program to businesses owned by women, minorities, and veterans and businesses located in rural counties.

(II) For money contributed to the Colorado credit reserve, the oversight board may waive the requirements of this subsection (4)(d) or

may establish alternative ~~targets~~ BENCHMARKS for the percentage of loans supported by the program that are made to businesses owned by SOCIALLY ANDECONOMICALLY DISADVANTAGED INDIVIDUALS, INCLUDING BUSINESSES OWNED BY women, minorities, and veterans and to businesses located in rural counties.

SECTION 3. In Colorado Revised Statutes, 24-36-206, **amend** (2)(b) and (9)(a) introductory portion as follows:

24-36-206. Small business recovery tax credits - authorization to issue - terms - report. (2) (b) The department is authorized to issue tax credit certificates to qualified taxpayers equal to the lesser of a COMBINED total face value of up to twenty-eight million dollars or COMBINED total sales proceeds of up to twenty-one million dollars in fiscal year ~~2021-22;~~ ~~except that, if money received by the state from the federal government has been appropriated, transferred, or allocated to the fund for the purposes of this part 2, the value of the tax sales proceeds that the department is authorized to raise under this subsection (2)(b) in fiscal year 2021-22 is reduced by the amount of federal money appropriated, transferred, or allocated by the fund~~ YEARS 2021-22 AND 2022-23.

(9) (a) The department shall provide a report to the division of insurance in the department of regulatory agencies for each fiscal year in which it issues tax credit certificates pursuant to this part 2 within thirty days ~~of~~ AFTER the ~~close of the fiscal year~~ ISSUANCE OF THE CREDITS. The report must include:

SECTION 4. In Colorado Revised Statutes, 24-36-207, **amend** (2) and (3) as follows:

24-36-207. Use of small business recovery tax credits - carry over. (2) For a tax credit certificate issued in fiscal year 2021-22 OR FISCAL YEAR 2022-23:

(a) The qualified taxpayer may claim UP TO FIFTY PERCENT OF the credit against premium tax liability incurred for a taxable year that begins on or after ~~January 1, 2027~~ JANUARY 1, 2023; except that a taxpayer may not reduce its estimated tax payments in proportion to such credit prior to ~~July 1, 2027~~ JULY 1, 2023; AND

(b) THE QUALIFIED TAXPAYER MAY CLAIM THE REMAINING AMOUNT OF THE CREDIT AGAINST PREMIUM TAX LIABILITY INCURRED FOR A TAXABLE YEAR THAT BEGINS ON OR AFTER JANUARY 1, 2024; EXCEPT THAT A TAXPAYER MAY NOT REDUCE THE TAXPAYER'S ESTIMATED TAX PAYMENTS IN PROPORTION TO SUCH CREDIT PRIOR TO JULY 1, 2024.

(3) (a) The total credit to be applied by a qualified taxpayer in any one year must not exceed the premium tax liability of the qualified taxpayer for the taxable year. If the qualified taxpayer cannot use the entire amount of the tax credit for the taxable year in which the taxpayer is eligible for the credit, the excess may be carried over to succeeding taxable years and used as a credit against the premium tax liability of the taxpayer for those taxable years; except that:

(I) FOR A CREDIT ISSUED IN FISCAL YEAR 2020-21, the credit may not be carried over to any taxable year that begins after December 31, 2031; AND

(II) FOR A CREDIT ISSUED IN FISCAL YEAR 2021-22 OR 2022-23, THE CREDIT MAY NOT BE CARRIED OVER TO ANY TAXABLE YEAR THAT BEGINS AFTER DECEMBER 31, 2029.

(b) Any amount of the credit that is not timely claimed expires and is not refundable.

SECTION 5. In Colorado Revised Statutes, 24-36-208, **amend** (4), (5), and (6) as follows:

24-36-208. Small business recovery fund - repeal. (4) Beginning in fiscal year ~~2025-26~~ YEAR 2027-28, the state treasurer shall credit any unexpended and unencumbered money remaining in the fund at the end of a fiscal year to the general fund.

(5) The state treasurer shall transfer all unexpended and unencumbered money in the fund at the end of the fiscal year on ~~June 30, 2029~~ JUNE 30, 2037, to the general fund.

(6) This section is repealed, effective ~~July 1, 2029~~ JULY 1, 2037.

SECTION 6. In Colorado Revised Statutes, **amend** 24-36-210 as

follows:

24-36-210. Repeal of part. This part 2 is repealed, effective ~~December 31, 2033~~ DECEMBER 31, 2040.

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

Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Steve Fenberg
PRESIDENT OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____

(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO