

**First Regular Session
Seventieth General Assembly
STATE OF COLORADO**

ENGROSSED

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

LLS NO. 15-1075.01 Bob Lackner x4350

HOUSE BILL 15-1383

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A BILL FOR AN ACT

101 **CONCERNING MODIFICATIONS TO THE COLORADO LOW-INCOME**
102 **HOUSING TAX CREDIT.**

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://www.leg.state.co.us/billsummaries>.)

The bill makes the following modifications to the existing Colorado low-income housing credit:

- ! Extends from 2 years to 5 years, through the calendar year ending December 31, 2019, the period during which the Colorado housing and finance authority may allocate low-income housing tax credits; and

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
May 1, 2015

! Adds provisions enabling the transfer of such income tax credits.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-22-2101, **add** (12)
3 as follows:

4 **39-22-2101. Definitions.** As used in this part 21, unless the
5 context otherwise requires:

6 (12) "TRANSFEREE" MEANS AN INDIVIDUAL, A PERSON, A FIRM, A
7 CORPORATION, OR OTHER ENTITY THAT IS SUBJECT TO TAXES IMPOSED BY
8 THIS ARTICLE WHO RECEIVES A CREDIT FROM EITHER A QUALIFIED
9 TAXPAYER OR ANOTHER TRANSFEREE.

10 **SECTION 2.** In Colorado Revised Statutes, 39-22-2102, **amend**
11 (6) and (7) introductory portion; and **add** (9) as follows:

12 **39-22-2102. Credit against tax - low-income housing**
13 **developments.** (6) The allocated credit amount may be taken BY A
14 QUALIFIED TAXPAYER OR TRANSFEREE against the taxes imposed by this
15 article for each taxable year of the credit period. Any amount of credit
16 that exceeds the tax due for a taxable year may be carried forward as a tax
17 credit against subsequent years' income tax liability up to eleven tax years
18 following the tax year in which the allocation was made. ~~and must be~~
19 ~~applied first to the earliest years possible.~~ Any amount of the credit that
20 is not used shall not be refunded to the QUALIFIED taxpayer OR
21 TRANSFEREE.

22 (7) During each calendar year of the ~~two-year~~ FIVE-YEAR period
23 beginning January 1, 2015, and ending ~~December 31, 2016~~ DECEMBER
24 31, 2019, the authority may allocate a credit, the full amount of which
25 may be claimed against the taxes imposed by this article for each taxable

1 year of the six-year credit period. The aggregate amount of all credits
2 allocated by the authority in each calendar year of the ~~two-year~~ FIVE-YEAR
3 period beginning January 1, 2015, and ending ~~December 31, 2016~~
4 DECEMBER 31, 2019, shall not exceed the amount of:

5 (9) ON OR AFTER JANUARY 1, 2017, A QUALIFIED TAXPAYER OR A
6 TRANSFEREE MAY TRANSFER ALL OR A PORTION OF A CREDIT GRANTED
7 PURSUANT TO SUBSECTION (1) OF THIS SECTION TO A TRANSFEREE TO
8 APPLY AS A CREDIT AGAINST THE TAXES IMPOSED BY THIS ARTICLE
9 SUBJECT TO THE FOLLOWING LIMITATIONS:

10 (a) A QUALIFIED TAXPAYER OR TRANSFEREE MAY ONLY TRANSFER
11 A PORTION OF THE CREDIT THAT HAS NEVER BEEN APPLIED AGAINST THE
12 INCOME TAXES OF ANY TAXPAYER IMPOSED BY THIS ARTICLE. CREDITS
13 MAY BE TRANSFERRED TO TRANSFEREES WHILE THEY HAVE
14 CARRYFORWARD STATUS AND MAY BE CLAIMED ON AMENDED RETURNS
15 FOR THE YEAR OF ISSUANCE OR CARRYFORWARD YEARS WITHIN THE
16 APPLICABLE STATUTE OF LIMITATIONS.

17 (b) A QUALIFIED TAXPAYER OR TRANSFEREE MAY TRANSFER A
18 PRORATED PORTION OF THE CREDIT TO MORE THAN ONE TRANSFEREE.

19 (c) FOR ANY TAX YEAR IN WHICH A CREDIT IS TRANSFERRED
20 PURSUANT TO THIS SUBSECTION (9), BOTH THE TRANSFEROR AND THE
21 TRANSFEREE SHALL FILE WRITTEN STATEMENTS WITH THEIR INCOME TAX
22 RETURNS SPECIFYING THE AMOUNT OF THE CREDIT TRANSFERRED.

23 (d) A QUALIFIED TAXPAYER OR TRANSFEREE MAY TRANSFER A
24 CREDIT PURSUANT TO THIS SUBSECTION (9) REGARDLESS OF WHETHER THE
25 TRANSFEROR RECEIVES VALUE IN EXCHANGE FOR THE TRANSFER. THE
26 TRANSFEREE OR A SUBSEQUENT TRANSFEREE MAY USE THE CREDIT TO PAY,
27 IN WHOLE OR IN PART, THE INCOME TAX OBLIGATION IMPOSED ON THE

1 TRANSFEREE OR SUBSEQUENT TRANSFEREE UNDER THIS ARTICLE. THE
2 TRANSFEREE'S USE OF A TAX CREDIT FROM A TRANSFEROR UNDER THIS
3 SECTION TO PAY TAXES OWED IS NOT DEEMED A REDUCTION IN THE
4 AMOUNT OF INCOME TAXES IMPOSED BY THIS ARTICLE ON THE
5 TRANSFEREE.

6 (e) EACH TRANSFEREE SHALL SUBMIT TO THE DEPARTMENT A
7 TRANSFER FORM APPROVED BY THE DEPARTMENT ESTABLISHING THAT THE
8 TRANSFEREE HAS SATISFIED THE REQUIREMENTS OF THIS SECTION.

9 (f) THE TRANSFER OF A CREDIT PURSUANT TO THIS SUBSECTION (9)
10 MAY OCCUR AT ANY TIME AFTER ISSUANCE OF A CREDIT THROUGH THE END
11 OF THE TAX CREDIT'S ELEVEN-YEAR CARRYFORWARD PERIOD.

12 (g) A CREDIT HELD BY AN INDIVIDUAL SURVIVES THE DEATH OF
13 THE INDIVIDUAL AND MAY BE CLAIMED OR TRANSFERRED BY THE
14 DECEDENT'S ESTATE.

15 (h) TRANSFEREES ARE NOT SUBJECT TO RECAPTURE UNDER
16 SECTION 39-22-2103.

17 **SECTION 3.** In Colorado Revised Statutes, 39-22-2103, **amend**
18 (1), (2), and (4) as follows:

19 **39-22-2103. Recapture.** (1) As of the last day of any taxable year
20 during the compliance period, if the amount of the qualified basis of a
21 qualified development with respect to a QUALIFIED taxpayer is less than
22 the amount of the qualified basis as of the last day of the prior taxable
23 year, then the amount of the QUALIFIED taxpayer's state income tax
24 liability for that taxable year shall be increased by the credit recapture
25 amount.

26 (2) For purposes of subsection (1) of this section, the credit
27 recapture amount is an amount equal to the aggregate decrease in the

1 credit allowed to the QUALIFIED taxpayer pursuant to this part 21 for all
2 prior taxable years that would have resulted if the accelerated portion of
3 the credit allowable by reason of this part 21 were not allowed for all
4 prior taxable years with respect to the reduced amount of qualified basis
5 described in subsection (1) of this section.

6 (4) In the event that recapture of any credit is required in any tax
7 year, the return submitted for that tax year to the department shall include
8 the proportion of credit required to be recaptured, the identity of each
9 QUALIFIED taxpayer subject to the recapture, and the amount of credit
10 previously allocated to such QUALIFIED taxpayer, EVEN IF SUCH CREDIT
11 WAS SUBSEQUENTLY TRANSFERRED TO A TRANSFEREE.

12 **SECTION 4.** In Colorado Revised Statutes, **amend** 39-22-2104
13 as follows:

14 **39-22-2104. Filing requirements.** An owner of a qualified
15 development to which a credit has been allocated and each qualified
16 taxpayer OR TRANSFEREE to which such owner has allocated OR
17 TRANSFERRED a portion of said credit, if any, shall file with their state
18 income tax return a copy of the allocation certificate issued by the
19 authority with respect to such development and a copy of the owner's
20 certification to the department as to the allocation of the credit among the
21 qualified taxpayers having ownership interests in such development. THE
22 DEPARTMENT SHALL MAINTAIN INFORMATION ON THE TRANSFERS OF TAX
23 CREDITS MADE PURSUANT TO SECTION 39-22-2102 (9).

24 **SECTION 5.** In Colorado Revised Statutes, 39-22-2105, **amend**
25 (1) as follows:

26 **39-22-2105. Parallel credits - insurance premium taxes.**
27 (1) Any taxpayer who is subject to the tax on insurance premiums

1 established by sections 10-3-209, 10-5-111, and 10-6-128, C.R.S., and
2 who is therefore exempt from the payment of income tax and who is
3 otherwise eligible to claim a credit pursuant to this part 21 AS EITHER A
4 QUALIFIED TAXPAYER OR A TRANSFEREE may claim such credit and carry
5 such credit forward against such insurance premium tax to the same
6 extent as the taxpayer would have been able to claim or carry forward
7 such credit or refund against income tax. All other provisions of this part
8 21 with respect to the credit, including the amount, allocation, and
9 recapture of the credit and the years for which the credit may be claimed
10 shall apply to a credit claimed pursuant to this section.

11 **SECTION 6. Safety clause.** The general assembly hereby finds,
12 determines, and declares that this act is necessary for the immediate
13 preservation of the public peace, health, and safety.