

SENATE BILL REPORT

E2SHB 1015

As Reported by Senate Committee On:
Business, Financial Services & Trade, February 24, 2022

Title: An act relating to creating the Washington equitable access to credit act.

Brief Description: Creating the Washington equitable access to credit act.

Sponsors: House Committee on Finance (originally sponsored by Representatives Maycumber, Chapman, Tharinger, Graham, Santos and Macri).

Brief History: Passed House: 1/21/22, 97-0.

Committee Activity: Business, Financial Services & Trade: 3/23/21, 3/25/21 [DPA-WM];
2/17/22, 2/24/22 [DPA-WM].

Brief Summary of Amended Bill

- Creates the Equitable Access to Credit Program to fund grants through the Department of Commerce to certain community development financial institutions (CDFI) to provide loans to historically underserved communities.
- The program is funded through a business and occupation tax credit capped at \$8 million annually for five years.
- Provides at least 65 percent of the grant funds awarded each calendar year to native CDFIs, or for grantees to provide services or invest in counties that have fewer than 100 persons per square mile, or have an area of less than 225 square miles.
- Restricts no more than 25 percent of all grants awarded in any calendar year from being awarded to the same CDFI.

SENATE COMMITTEE ON BUSINESS, FINANCIAL SERVICES & TRADE

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Mullet, Chair; Hasegawa, Vice Chair; Dozier, Ranking Member; Brown, Frockt, Lovick and Wilson, L.

Staff: Clinton McCarthy (786-7319)

Background: Community Development Financial Institutions. A community development financial institution (CDFI) is a specialized financial institution certified by the United States Department of the Treasury (Treasury) to provide loans for community development purposes. CDFIs work in economically distressed markets underserved by traditional financial institutions and provide financial products such as mortgage financing for low-income homebuyers and not-for-profit developers, flexible underwriting and risk capital for community facilities, and technical assistance and commercial loans to small businesses in low-income areas. The Treasury offers competitive financial and technical assistance awards to assist certified CDFIs offering these financial products. An emerging CDFI may apply for a technical assistance award if it can demonstrate the ability to become a certified CDFI within three years. CDFIs include institutions such as community development banks, credit unions, and venture capital funds. As of December 2020, 29 certified CDFIs were operating in Washington.

In 2021, CDFI's received \$1.25 billion in federal funding authorized by the Coronavirus Response and Relief Supplemental Appropriations Act of 2021 to assist communities responding to economic hardships created by the COVID-19 pandemic.

The Department of Commerce (Commerce) selected three CDFI partners to run the Early Learning Facilities loan program.

Summary of Amended Bill: Commerce is directed to create and operate the Equitable Access to Credit Program (program). The purpose of the program is to award grants to qualified lending institutions (QLIs) to provide access to credit for historically underserved communities. The grants are funded by a business and occupation (B&O) tax credit.

Funding the Equitable Access to Credit Program. To fund the program, a tax credit against the B&O tax for contributions made to the equitable access to credit program is created. No person may claim more than \$1 million of credit in any calendar year, including credit carried over from the previous calendar year, and no refunds may be granted for unused credits. The maximum amount of tax credits in a calendar year may not exceed \$8 million, and the Department of Revenue must inform Commerce once this limit is met. Credits are available on a "first-in-time" basis.

To claim the credit, a person must file with the Department of Revenue, in a format approved by the Department of Revenue. No credits may be earned on contributions that occur after June 30, 2027.

Limitation on Disbursements by the Department of Commerce to Qualified Lending Institutions. No more than 25 percent of all grants awarded in any calendar year may be awarded to the same grant recipient. At least 65 percent of the grant funds awarded each calendar year must be provided to native CDFIs, or for grantees to provide services or invest in counties that have fewer than 100 persons per square mile or have an area of less than 225 square miles. Up to 20 percent of each grant award may be used by the grant recipient to fund a loan loss reserve, technical assistance, and small business training programs.

Beginning in fiscal year 2023, up to 5 percent may be used for agency staffing and administrative costs related to implementing this act. If the program is not fully funded in a given year, the limit on administrative costs may be increased to 10 percent.

Member Appointments to an Advisory Board to Rank Grant Applications. Commerce must appoint members to an advisory board that will assist in ranking grant applications. Commerce must seek to achieve a fair geographic balance of committee members and is encouraged to seek representation from members with relevant expertise, including the following: representatives of the banking industry who are familiar with CDFIs; economic development professionals who have experience in rural development; representatives of local government; and representatives of federally recognized Indian tribes.

Commerce may include additional criteria it deems helpful in achieving the goal of ensuring access to credit to underserved communities across the state.

Criteria for Qualified Lending Institution Status. Grants from Commerce must be made to QLIs under the program. A QLI must be:

- recognized by the Treasury as an emerging or certified CDFI;
- registered as a nonprofit organization exempt from taxation under the Internal Revenue Code; and
- able to demonstrate a history of lending in Washington.

A QLI must provide the following grant matching funds:

- at least 5 percent if recognized as an emerging CDFI;
- at least 10 percent if recognized as a certified CDFI with assets of fewer than \$3 million; or
- 25 percent if recognized as a certified CDFI with assets of at least \$3 million.

Member Appointments to an Advisory Board to Rank Grant Applications. Commerce must appoint members to an advisory board that will assist in ranking grant applications. Commerce must seek to achieve a fair geographic balance of committee members and is encouraged to seek representation from members with relevant expertise, including the following: representatives of the banking industry who are familiar with CDFIs; economic development professionals who have experience in rural development; representatives of local government; and representatives of federally recognized Indian tribes.

Commerce may include additional criteria it deems helpful in achieving the goal of ensuring access to credit to underserved communities across the state.

When ranking grant applications, the following criteria must be considered:

- the number and total value of loans and investments closed during the previous five-year period by the QLI in Washington and the percentage of those loans and investments that went to historically underserved communities;
- funds leveraged by the proposed grant award;
- projected loan or investment production with the award over the performance period of the grant;
- how the award supports the growth of the QLI;
- past performance of loans and investments made by the QLI; and
- awards to a diversity of QLIs.

When a loan or investment of funds from the Program is repaid to a QLI, the QLI must offer the repaid funds as new loans or investments consistent with the terms of the program for five years from the date of the grant award. Loans and investments using funds from the program cannot be in excess of 200 basis points above the Wall Street Journal prime rate.

Program Administration—Permitted Use of Funds From the Account. Up to 5 percent of the program revenues may be used for staffing and administrative costs incurred by state agencies for implementation of the program. Beginning in 2021, Commerce must submit an annual report to the Legislature that contains the following information:

- the list of grant applicants, total value of grants requested, and the location of each applicant;
- the list of grant recipients, total amount of awards, and required match amounts;
- aggregated information on loans and investments provided by the QLIs receiving grants; and
- The Wall Street Journal Prime Rate on the day that the loan was issued.

Commerce may contract for all or part of the program's administration.

EFFECT OF BUSINESS, FINANCIAL SERVICES & TRADE COMMITTEE AMENDMENT(S):

The implementation date is changed to assume implementation in 2022 rather than 2021. The duration of the tax credit is reduced from ten years to five years. The interest rates of loans or investments funded by the program are limited to 200 basis points over the Wall Street Journal Prime Rate. QLI's must ensure that funds received through repaid loans that utilized funds from the program continue to be subject to the requirements of the program. QLI's is reduced. The expiration date for the chapter is removed.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Engrossed Second Substitute House Bill (Regular Session 2022):

The committee recommended a different version of the bill than what was heard. PRO: This bill is a result of years of hard work with stakeholders. This is business helping businesses get off the ground. Why not go to banks? CDFI's fill the gaps and help serve the underserved. This bill is an important step to supporting rural economic development. CDFI's are often the first place that people use to start the process of rebuilding their credit. CDFIs in general have higher interest rates than banks or credit unions for small business lending. Typically a small business loan is prime plus 3 to 4 percent. For CDFIs tend to be 2 to 3 percent above those rates. Washington can significantly invest in economic development and focus on communities that are underserved and have disadvantages that other parts of the state does not have. CDFIs often offer businesses a lifeline so that they can qualify for traditional banking options in the future. This is a long term need, and a long term financial solution will help address this issue over a period of time. During COVID19, 40 percent of black and brown owned businesses were shuttered.

Persons Testifying: PRO: Representative Jacquelin Maycumber, Prime Sponsor; Michael Moran, Confederated Tribes of the Colville Reservation; Emerson Sekins, Northwest Access Fund; Joe Sky-Tucker, Business Impact NW; Bruce Brooks, Craft3; Beto Yarce, Ventures; Mackenzie Chase, Seattle Metropolitan Chamber of Commerce; Tommy Gantz, Association of Washington Business; Paula Sardinias, WA Build-Back Black Alliance (WBBA).

Persons Signed In To Testify But Not Testifying: No one.