SENATE BILL REPORT
SB 5138

As of January 21, 2021

Title: An act relating to eliminating a business and occupation tax deduction for financial institutions to fund affordable housing.

Brief Description: Eliminating a business and occupation tax deduction for financial institutions to fund affordable housing.

Sponsors: Senators Kuderer, Hasegawa, Das, Nguyen, Saldaña, Salomon and Wilson, C..

Brief History:
Committee Activity: Business, Financial Services & Trade: 1/21/21.

Brief Summary of Bill

- Repeals the business and occupation tax deduction for interest on investments or loans secured by first mortgages or deeds of trust on non-transient residential properties for community banks.

SENATE COMMITTEE ON BUSINESS, FINANCIAL SERVICES & TRADE

Staff: Clinton McCarthy (786-7319)

Background: Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. Businesses must pay the B&O tax even though they may not have any profits or may be operating at a loss.

A taxpayer may have more than one B&O tax rate, depending on the types of activities conducted. Major B&O tax rates are 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.5 percent for services and for activities not classified elsewhere. Financial institutions are subject to the 1.5 percent service and other B&O tax rate.

Entities engaged in banking, loan, security, or other financial businesses may deduct interest on investments or loans secured by mortgages or deeds of trust. This exemption is limited to community banks, which are located in less than ten states.

Summary of Bill: Beginning August 1, 2021, the deduction of interest on investments or loans secured by first mortgages or deeds of trust for entities engaged in banking, loan, security, or other financial businesses is repealed. The statute that limited the deduction to community banks is also repealed. The interest and related fees would become fully taxable. By October 15, 2022, and each October 15th thereafter, the Department of Revenue is directed to estimate any increase in state general fund revenues as a result of repealing this deduction. After informing the state treasurer of any increase, the state treasurer must transfer that amount from the general fund into the housing trust fund beginning November 1, 2022, and by each November 1st thereafter. The Department of Revenue may not make any adjustments to the estimate after the state treasurer makes the fund transfer.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: The bill takes effect on August 1, 2021.

Staff Summary of Public Testimony: PRO: We need to find revenue that can be used to create additional housing in Washington State. The state has a housing crisis. Prices are skyrocketing due to a lack of supply. Displacement, gentrification are some of the many issues we are experiencing across the state. Washington has a severe housing shortage, which has been worsened by the recession. The housing trust fund had $407 million in requests, which far outpaced the amount of money in the fund.

CON: The banks who benefit from this exemption are our community banks. A lot of these community banks focus on first time homeowners. The Department of Revenue’s estimates are inflated by a factor of ten. Lending in Washington is highly regulated. Community banks compete with credit unions and large international banks that have numerous built in advantages over community banks. Local lenders can not compete with these other lenders without this exemption—it allows them to provide competitive rates. This impacts portfolio lenders at a significant level. All businesses are going to see increases in their unemployment rates, and this would hit banks as well. Community banks are trying to find ways to help our local economy improve without hurting local businesses. There are complex tax issues in play here that could result in lower revenue coming into the state overall. The deduction was also meant to increase competition. Community banks matter. You are going to lose them if you continue to increase taxes on banks and refuse to tax credit unions. Access to market rate mortgages does not cause homelessness. By hurting market rates, you do create housing shortages.

Persons Testifying: PRO: Michele Thomas, Washington Low Income Housing Alliance.

CON: Brad Tower, Community Bankers of Washington; Lori Drummond, Olympia Federal Savings; Tommy Gantz, Association of Washington Business; Debra Johnson, Evergreen Home Loans and Washington Mortgage Bankers Association; Glen Simecek, Washington Bankers Association; Brent Beardall, WaFd Bank; Jan Himebaugh, Building Industry Association of Washington.

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