

HOUSE BILL REPORT

EHB 1490

As Passed House:
March 2, 2011

Title: An act relating to a business and occupation tax deduction for certified community development financial institutions.

Brief Description: Concerning a business and occupation tax deduction for certified community development financial institutions.

Sponsors: Representatives Kenney, Orcutt and Santos.

Brief History:

Committee Activity:

Community Development & Housing: 2/2/11, 2/9/11 [DPA];
Ways & Means: 2/17/11, 2/23/11 [DPA(CDH)].

Floor Activity:

Passed House: 3/2/11, 94-2.

Brief Summary of Engrossed Bill

- Provides nonprofit certified community development financial institutions with a business and occupation tax deduction on interest received from first-time home buyer program loans.

HOUSE COMMITTEE ON COMMUNITY DEVELOPMENT & HOUSING

Majority Report: Do pass as amended. Signed by 9 members: Representatives Kenney, Chair; Finn, Vice Chair; Smith, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Ahern, Maxwell, Ryu, Santos and Walsh.

Staff: Jennifer Thornton (786-7147).

HOUSE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended by Committee on Community Development & Housing. Signed by 26 members: Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking

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Minority Member; Dammeier, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Carlyle, Chandler, Cody, Dickerson, Haigh, Haler, Hinkle, Hudgins, Hunt, Kagi, Kenney, Ormsby, Parker, Pettigrew, Ross, Schmick, Seaquist, Springer and Wilcox.

Staff: Rick Peterson (786-7150).

Background:

Business and Occupation Taxes.

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. Revenues are deposited in the State General Fund. There are several rate categories, and a business may be subject to more than one B&O tax rate, depending on the types of activities conducted. The B&O tax does not permit deductions for the costs of doing business, such as payments for raw materials and wages of employees. However, there are many exemptions for specific types of business activities, and certain deductions and credits are permitted under the B&O tax statutes.

Community Development Financial Institutions.

The United States Treasury Department's Community Development Financial Institutions (CDFI) Fund was established by the Riegle Community Development and Regulatory Improvement Act of 1994. The CDFI Fund was created for the purpose of promoting economic revitalization and community development through investment in and assistance to CDFIs. The CDFI Fund's mission is to expand the capacity of financial institutions to provide credit, capital, and financial services to underserved populations and communities in the United States.

A CDFI certification is a designation conferred by the CDFI Fund and is a requirement for accessing financial and technical award assistance from the CDFI Fund. A certified CDFI is a specialized financial institution that works in market niches that are underserved by traditional financial institutions. They provide a unique range of financial products and services in economically distressed target markets, such as mortgage financing for low-income and first-time homebuyers and not-for-profit developers, flexible underwriting and risk capital for needed community facilities, technical assistance, commercial loans, and investments to small start-up or expanding businesses in low-income areas. The CDFIs include regulated institutions such as community development banks and credit unions, and non-regulated institutions such as loan and venture capital funds.

To become certified as a CDFI, an organization must apply and meet each of the following requirements:

- be a legal entity at the time of certification application;
- have a primary mission of promoting community development;
- be a financing entity;
- primarily serve one or more target markets;
- provide development services in conjunction with its financing activities;

- maintain accountability to its defined target market; and
- be a non-government entity and not be under control of any government entity (Tribal governments excluded).

Certification does not constitute an opinion by the CDFI Fund as to the effectiveness or financial viability of the certified organization.

As of December 31, 2010, there were 939 certified CDFIs nationwide, with 22 in Washington.

Summary of Engrossed Bill:

An eligible entity may take a B&O tax deduction on interest received on or after August 1, 2011, from loans issued as part of a first-time home buyer program.

An "eligible entity" is defined as a nonprofit organization certified as a community development financial institution by the federal Community Development Financial Institutions Fund.

A "nonprofit organization" is defined as an organization exempt from federal income tax under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony (Community Development & Housing):

(In support) This will provide a financing benefit, particularly to underserved populations. HomeSight is a nonprofit community development corporation that creates affordable home ownership opportunities by developing affordable homes, providing education and counseling, and offering low-interest loans. One key element offered is low-interest down payment assistance loans. HomeSight has maintained a low delinquency rate and has no foreclosures. HomeSight recently learned that the interest on amortizing second mortgage loans is subject to the B&O tax. This small exemption would be helpful, and HomeSight is the only agency that will qualify right now.

(Opposed) None.

Staff Summary of Public Testimony (Ways & Means):

(In support) This simple bill provides certified nonprofits with the ability to deduct interest on loans issued as part of a first-time homebuyers program. It will decrease the cost of the first-time homebuyers program. We create affordable home ownership opportunities for first-time homebuyers in three ways: developing affordable homes and condos; providing

homebuyer education classes; and providing low-interest loans to assist with the purchase of a home. A key element of the program is to provide low-interest down payment assistance loans. Over the past five years, we have created over 100 new homeowners each year. We recently learned that interest earned on amortizing second mortgage loans is taxable under the business & occupation tax. This small exemption will prevent the loss of funds that help cover the administrative costs of other public programs that do not cover administrative costs.

(Opposed) None.

Persons Testifying (Community Development & Housing): Representative Kenney, prime sponsor; Steve Williams and Tom Jacobi, HomeSight; and Nick Federici, Washington Low Income Housing Alliance.

Persons Testifying (Ways & Means): Representative Kenney, prime sponsor; and Steve Williams and Tom Jacobi, HomeSight.

Persons Signed In To Testify But Not Testifying (Community Development & Housing): None.

Persons Signed In To Testify But Not Testifying (Ways & Means): None.