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**Consumer Protection & Business  
Committee**

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**HB 1015**

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

**Sponsors:** Representatives Maycumber, Chapman, Tharinger, Graham, Santos and Macri.

**Brief Summary of Bill**

- Establishes the Equitable Access to Credit Program (Program) within the Department of Commerce for the purpose of awarding grants to qualified lending institutions to provide access to credit for historically underserved communities.
- Creates a credit against business and occupation (B&O) taxes owed for contributions made to the Program.
- Authorizes a maximum B&O tax credit of \$1 million per taxpayer per year and a total B&O tax credit for the Program of \$8 million per year.

**Hearing Date:** 1/18/21

**Staff:** Serena Dolly (786-7150).

**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 that are 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

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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 in 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.

#### 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, 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 (businesses with taxable income of less than \$1 million) or 1.75 percent (businesses with taxable income of \$1 million or more) for services and for activities not classified elsewhere. Several preferential rates also apply to specific business activities. In addition, a taxpayer may be eligible to utilize other tax preferences, including credits and deductions, to reduce their tax liability. B&O taxes are collected by the Department of Revenue (Revenue) and deposited into the State General Fund.

#### Tax Preference Performance Statement and Expiration Date.

All new tax preference legislation must include a tax preference performance statement, unless exempted. Tax preferences include deductions, exemptions, preferential tax rates, and tax credits. The performance statement must clearly specify the public policy objectives of the tax preference and the specific metrics and data that will be used by the Joint Legislative Audit and Review Committee (JLARC) to evaluate the efficacy of the tax preference. New tax preferences expire 10 years after the effective date of the tax preference, unless otherwise provided.

#### **Summary of Bill:**

The Department of Commerce (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 taxpayers who may receive a B&O tax credit for contributions to the Program.

#### Eligibility Requirements.

QLIs may receive grant funding 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 Title 26 U.S.C. §501 (c)(3) of the Internal Revenue Code; and
- able to demonstrate a history of lending in Washington.

In addition, a QLI must provide grant matching funds of: (1) at least 20 percent if recognized as an emerging CDFI; (2) at least 50 percent if recognized as a certified CDFI with assets of fewer than \$3 million; or (3) 100 percent if recognized as a certified CDFI with assets of at least \$3 million.

When a loan or investment of funds from the Program are repaid to a QLI, the QLI must offer the repaid funds as new loans or investments consistent with the terms of the Program for a period of 10 years from the date of the grant award.

#### Review Committee.

Commerce must convene and staff a review committee to award Program grants. Commerce must seek to achieve a fair geographic balance of committee members and is encouraged to seek the following: (1) representatives of the banking industry who are familiar with CDFIs; (2) economic development professionals who have experience in rural development; (3) representatives of local government; and (4) representatives of federally recognized Indian tribes.

#### Grant Criteria.

No more than 25 percent of all grants awarded in any calendar year may be awarded to the same grant recipient. In addition, at least 75 percent of the grant funds awarded each calendar year must be provided 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.

In awarding grants, the review committee also must consider the following:

- 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, including projected project leverage;
- 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.

#### Reporting by Qualified Lending Institutions.

A QLI receiving a grant under the Program must submit an annual report to Commerce that includes:

1. an anonymized list of loans and investments that provides information on a per-borrower or per-investee basis, including the term and type of loan or investment; the city and county where the funds will be invested; the projected number of jobs created; the entity structure; and whether the investee or borrower is more than 50 percent owned or controlled by one or more minorities, women, or low-income persons;

2. certification that each loan or investment was to historically underserved communities; and
3. other information required by Commerce.

#### Reporting by the Department of Commerce.

Beginning in 2021, Commerce must submit an annual report to the Legislature that contains the following information:

1. the list of grant applicants, total value of grants requested, and the location of each applicant;
2. the list of grant recipients, total amount of awards, and required match amounts; and
3. aggregated information on loans and investments provided by QLIs receiving grants.

#### Business and Occupation Tax Credit.

A tax credit is authorized against B&O taxes otherwise due for persons that contribute to the Program. The amount of the credit claimed for a reporting period may not exceed the B&O tax otherwise due for that reporting period. The credit may be used against any B&O tax due and may be carried over until used. No person may claim more than \$1 million of credit in any calendar year, including credit carried over from a previous calendar year. No refunds may be granted for any unused credits.

Credits are available on a first-in-time basis. Revenue must disallow any credits, or portions thereof, that would cause the total amount of credits claimed under the Program for any calendar year to exceed \$8 million. If this limitation is reached, Revenue must notify Commerce that the annual statewide limit has been met. In addition, Revenue must provide written notice to any person who has claimed tax credits in excess of the limitation.

No credit under the Program may be allowed before January 1, 2021. No credit may be earned for contributions made to the Program after June 30, 2031. Commerce may award grants under the Program beginning six months after the first tax credits are claimed. Commerce must cease to award grants when the Program expires on July 1, 2031.

#### Equitable Access to Credit Program Account.

The Equitable Access to Credit Program Account (Account) is created in the custody of the State Treasurer. Contributions to the Program must be deposited in the Account. Expenditures from the Account may be used only for the award of grants to QLIs under the Program. Any funds remaining in the Account when the Program expires must be transferred to the State General Fund.

#### Tax Preference Performance Statement and Expiration Date.

The Program expires on July 1, 2031. The stated intent of the Legislature is to provide a tax preference that creates or retains jobs and encourages community and economic development in communities that have historically lacked access to capital. The stated intent of the Legislature is also to extend the expiration date of the tax preference if a review by the JLARC finds that the Program has a net positive impact on investment in communities historically underserved by credit and on state and local tax revenues.

**Appropriation:** None.

**Fiscal Note:** Requested on January 14, 2021.

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