

Chapter 43.390 RCW
EQUITABLE ACCESS TO CREDIT PROGRAM

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RCW 43.390.010 Short title. This chapter may be known and cited as the Washington equitable access to credit act. [2022 c 189 § 1.]

RCW 43.390.020 Equitable access to credit program. (1) Subject to appropriation, the department of commerce shall create and operate the equitable access to credit program. The purpose of the equitable access to credit program is to award grants to qualified lending institutions, using funds generated by business and occupation tax credits created in RCW 82.04.4499, for the purpose of providing access to credit for historically underserved communities. The equitable access to credit program must be governed by the provisions of this chapter and by any guidelines developed and rules adopted by the department of commerce pursuant to this chapter.

(2) The following requirements apply to the operation of the equitable access to credit program:

(a) No more than 25 percent of all grants awarded in any calendar year may be awarded to the same grant recipient;

(b) Up to 20 percent of an individual grant award may be used by the grant recipient to fund a loan loss reserve, technical assistance, and/or small business training programs;

(c) At least 65 percent of the value of all grants awarded in any calendar year must be provided for native community development financial institution grantees or grantees to provide services or invest, or both, in rural counties as defined in RCW 82.14.370; and

(d) Beginning in fiscal year 2022, up to five percent of the program revenues may be used for all agencies' staffing and other administrative costs related to the implementation of chapter 189, Laws of 2022. In the event that the statewide limit in RCW 82.04.4499(3) is not reached, the percentage used for administration may be increased as necessary to maintain normal staffing operations, not to exceed 10 percent.

(3) In order to receive a grant award under the equitable access to credit program, a qualified lending institution must:

(a) Be recognized by the United States department of the treasury as:

(i) An emerging community development financial institution; or

(ii) A certified community development financial institution;

(b) Match any grant awarded by the equitable access to credit program on:

(i) At least a five percent basis, if the institution is recognized by the United States department of the treasury as an emerging community development financial institution;

(ii) At least a 10 percent basis, if the institution:

(A) Is recognized by the United States department of the treasury as a certified community development financial institution; and

(B) Has net assets of fewer than \$3,000,000 at the time of the grant application; or

(iii) At least a 25 percent basis, if the institution:

(A) Is recognized by the United States department of the treasury as a certified emerging community development financial institution; and

(B) Has net assets of \$3,000,000 or more at the time of the grant application;

(c) Be registered as a nonprofit organization exempt from taxation under Title 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code of 1986, as amended, as of June 9, 2022; and

(d) Demonstrate a history of lending in Washington.

(4) The director must appoint members to an advisory board that will assist the department in ranking applications for the grants. The department is encouraged to seek representation from members with relevant expertise, including those from the banking industry familiar with community development financial institutions, rural economic development professionals, local government representatives, and representatives from federally recognized Indian tribes. The department shall seek, to the greatest extent possible, a fair geographic balance.

(5) (a) The following criteria must be considered in ranking applications:

(i) The number and total value of loans and investments closed during the previous five-year period by the qualified lending institution in Washington and the percentage of those loans and investments that went to historically underserved communities;

(ii) Funds leveraged by the proposed grant award, which may be no less than 25 percent for certified community development financial institutions with net assets of \$3,000,000 or more at the time of the grant application;

(iii) Projected loan or investment production with the award over the performance period of the grant;

(iv) How the award supports the growth of the qualified lending institution;

(v) Past performance of loans and investments made by the qualified lending institution including, where applicable, past performance of loans and investments made using funds from the equitable access to credit program; and

(vi) Awards to a diversity of qualified lending institution awardees, including institutions of different sizes or with different target markets or products, access to historically underserved communities, or other differentiators that ensure a broad-base access to capital.

(b) The department may also include such additional criteria as it deems helpful in achieving the goal of ensuring access to credit to underserved communities across the state.

(6) Grants may be awarded from the equitable access to credit program beginning six months after the first tax credits are claimed pursuant to RCW 82.04.4499. Grant awards must cease from the equitable access to credit program upon the expiration of this chapter.

(7) No loan or investment made by a qualified lending institution using funds awarded from the equitable access to credit program may have an interest rate that exceeds 200 basis points above the Wall Street Journal prime rate when the loan or investment is made.

(8) Once a loan or investment made by a qualified lending institution using funds awarded from the equitable access to credit

program has been repaid, the qualified lending institution must reloan the repaid funds consistent with the terms of this chapter.

(9) A qualified lending institution that receives funds from the equitable access to credit program must submit a report to the department of commerce by June 30th of each year that contains the following information:

(a) A list of loans and investments made using funds from the equitable access to credit program's grant and associated match, including, on a per-borrower or per-investee basis:

(i) The date the loan or investment was originated;

(ii) The amount of the loan or investment;

(iii) The total cost of the project, including owner equity and leverage;

(iv) The interest rate and interest type;

(v) The Wall Street Journal prime rate at the time the loan or investment is made;

(vi) The term;

(vii) The number of permanent full-time equivalent jobs projected to be created in the business due to this financing;

(viii) Whether the loan or investment utilized a guarantee program;

(ix) The North American industry classification system code;

(x) The entity structure;

(xi) Whether the investee or borrower is more than 50 percent owned or controlled by:

(A) One or more minorities;

(B) One or more women; or

(C) One or more low-income persons;

(xii) The race of the primary investee(s) or borrower(s);

(xiii) Whether the primary investee or borrower is Hispanic or Latino; and

(xiv) The location, by city and county, in which funds from the program will be invested;

(b) Certification that each loan or investment made using funds from the program was to a historically underserved community; and

(c) Other information as required by the department of commerce.

(10) No later than September 15th of each year, beginning in 2022, the department of commerce must submit a report to the appropriate committees of the legislature that contains the following information:

(a) The list of grant applicants, total value of grants requested, and the location of each applicant;

(b) The list of grant recipients, total amount of awards, and required match amounts; and

(c) On an aggregate basis, information on loans and investments as reported under subsection (9) of this section.

(11) The department may contract for all or part of the administration of this section.

(12) The department may adopt rules as necessary to implement this section. [2022 c 189 § 3.]

RCW 43.390.030 Equitable access to credit program account. The equitable access to credit program account is created in the custody of the state treasurer. All receipts from contributions to the equitable access to credit program created by this chapter must be deposited in the account. Expenditures from the account may be used

only for the award of grants to qualified lending institutions from the equitable access to credit program and administrative costs pursuant to RCW 43.390.020. Only the director of the department of commerce or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. Any funds remaining in the account upon the expiration of this chapter must be transferred to the state general fund. [2022 c 189 § 4.]