

# SENATE BILL REPORT

## SB 6269

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As Reported by Senate Committee On:  
Financial Institutions, Housing & Insurance, February 4, 2014

**Title:** An act relating to the first mortgage interest business and occupation tax deduction.

**Brief Description:** Concerning the first mortgage interest business and occupation tax deduction.

**Sponsors:** Senators Angel, Hobbs, Fain, Tom and Benton.

**Brief History:**

**Committee Activity:** Financial Institutions, Housing & Insurance: 1/28/14, 2/04/14 [DPS-WM, DNP].

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### SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

**Majority Report:** That Substitute Senate Bill No. 6269 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Angel, Co-Chair; Hobbs, Co-Chair; Benton, Vice Co-Chair; Fain, Hatfield and Roach.

**Minority Report:** Do not pass.

Signed by Senators Mullet, Vice Co-Chair; Nelson.

**Staff:** Alison Mendiola (786-7483)

**Background:** Business & Occupation (B&O) Tax. Washington's major business tax is the 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. Revenues are deposited in the state general fund. A business may have more than one B&O tax rate, depending on the types of activities conducted. There are a number of different rates. Interest earned on loans by financial institutions is taxed at 1.5 percent.

First Mortgage Interest Deduction. Interest on loans secured by a first mortgage on residential real property, with one to four units, is eligible for a B&O tax exemption if the bank operates in fewer than ten states. Deductible interest includes the portion of fees charged to borrowers, including points and origination fees, that is recognized over the life of a loan as an adjustment to yield in the taxpayer's books and records according to generally

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accepted accounting principles. The statute provides for a nonexclusive list of items not subject to the deduction including any other fees, or portion of a fee.

By June 2015, the Joint Legislative Audit and Review Committee must review the first mortgage interest deduction and make a recommendation as to whether the deduction should be continued without modification, modified, or terminated immediately.

**Summary of Bill (Recommended Substitute):** The interest deductible under the first mortgage interest deduction is stated to include point and loan origination fees.

As to the nonexclusive list of items not subject to the first mortgage interest deduction, "any other fees, or portion of a fee" is changed by adding "other than points and loan origination fees."

It is the intent of the Legislature that this bill is clarifying a technical inconsistency and is not intended to create a new or expanded tax preference under RCW 82.32.805.

**EFFECT OF CHANGES MADE BY FINANCIAL INSTITUTIONS, HOUSING & INSURANCE COMMITTEE (Recommended Substitute):** The interest deductible under the first mortgage interest deduction is stated to include point and loan origination fees, instead of amounts charged to borrowers for the use of money, including points and loan origination fees.

It is the intent of the Legislature that this bill is clarifying a technical inconsistency and is not intended to create a new or expanded tax preference under RCW 82.32.805.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony on Original Bill:** PRO: Financial institutions are taxed 1.5 percent unless eligible for deduction. Credit unions are not subject to this tax. The changes in this bill reinstate the intended purpose of this legislation, that the deduction is on points and and loan origination fees. Not as defined by the generally accepted accounting principles. The Department of Revenue is misinterpreting the statute and the fiscal note is outrageous. There are some technical changes to be worked out.

**Persons Testifying:** PRO: Senator Angel, prime sponsor; Brad Tower, Community Bankers of WA; Dwayne Aberle, Security State Bank; John Marvin, Raymond Federal Bank; and Denny Eliason, WA Bankers Assn.