SENATE BILL REPORT
SB 6445

As of January 23, 2020

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, Das, Wilson, C., Hunt, Nguyen and Saldaña.

Brief History:
Committee Activity: Financial Institutions, Economic Development & Trade: 1/23/20.

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 FINANCIAL INSTITUTIONS, ECONOMIC DEVELOPMENT & TRADE

Staff: Clint 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.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

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, 2020, 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by first mortgages or deeds of trust for entities engaged in banking, loan, security or other financial businesses is repealed. The statute that limited the deduction to community banks is also repealed.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, 2021, 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, 2021, 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, 2020.

Staff Summary of Public Testimony: PRO: There is a logical nexus with this tax deduction that banks are receiving for mortgages and affordable housing. We have an emergency with so many people that are homeless in Washington now. The Governor has advocated for tapping into the rainy day fund. This bill provides a sustainable funding mechanism. The state funded the Housing Trust Fund at $175 million last year, which is the most it has ever been funded at. But it is not enough. This is just one piece of the puzzle in trying to solve the homelessness problem in the state. For every 100 low income earners in Washington, there are only 28 affordable homes for them. We all agree that having so many homeless people in Washington is unacceptable and a statewide crisis. Income inequality and sky high rents are the reason for our crisis. In addition to the unaffordable homes we have, we are at risk of losing 5000 affordable homes because Section 8 house restrictions expiring. If we lose those homes, we will not ever be able to get them back.

OTHER: This is not in the Governor's budget, so the Department of Commerce cannot speak to the impact on the budget or whether or not the bill should pass. The Housing Trust Fund has a $1 billion portfolio. It links public funds with private funds to develop affordable housing solutions. Commerce appreciates what the bill proponents are trying to do because there is a housing shortage in the state and rents are very high for many Washingtonians. Commerce gets twice as many requests as they have funding to provide through the Housing Trust Fund.

CON: While we need to add more affordable housing supply within the state, the state must also understand the tax implications of pursuing this strategy for the state's community banks. This preference allows Washington based community banks to be competitive with bigger banks and credit unions. Because of the recession, the regulatory requirements on small banks has become particularly burdensome. This bill would be burdensome to local lenders who have low margins. Maintaining the deduction is a good thing for banks that originate and keep their loans on their books, rather than sell them to third parties. The benefit of community banks is that borrowers can sit down with the actual people making their loans. Banks are acutely sensitive to the housing problems that affect the state, but this bill will exacerbate the housing crisis- not help to solve it. Non-banks are now the largest suppliers of mortgages in the United States. Community based banks allow for personalized services. Eliminating the B&O deduction for community banks will be passed along to consumers and make it more expensive to borrow capital in the state. Personal one-size fits all loans will replace personalized loans and not take into account local factors. There were 93 small banks in 2004, and now there are 40. The preference allows small banks to compete with large banks and credit unions. A tax on small community banks is not the right solution. They are a portfolio lender and are with people through the life of their loans. The tax would force community banks to not be able to give discounted rates. They would have to increase fees.

Persons Testifying: PRO: Senator Patty Kuderer, Prime Sponsor; Michele Thomas, Washington Low Income Housing Alliance.

CON: Brad Tower, Community Bankers of Washington; Lori Drummond, Olympia Federal Savings & Loan; Brent Beardall, Washington Federal; Glen Simecek, Washington Bankers Association; Debra Johnson, Evergreen Home Loans.

OTHER: Jasmine Vasavada, Legislative Director, Department of Commerce.

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