SENATE BILL REPORT
SB 5493

As of January 25, 2023

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, Wellman, Hasegawa, Lovelett, Lovick, Saldaña and Wilson, C..

Brief History:
Committee Activity: Housing: 1/25/23.

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 HOUSING

Staff: Riley Benge (786-7316)

Background: Business and Occupation Tax. 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 business or taxpayer may have more than one B&O tax rate, depending on the types of activities conducted.

Businesses and their affiliates with over $1 million of taxable service and other activities B&O income in the previous calendar year pay taxes at the service and other activities B&O rate of 1.75 percent. All others pay taxes at the service and other activities B&O rate of 1.5

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

percent.

Business and Occupation Tax Deduction for First Mortgage Interest. A B&O tax deduction is available to financial institutions for interest earnings on investments or loans secured by first mortgages or deeds of trust on residential properties. An originating lender that sells mortgage loans onto the secondary market but continues to service the loans, may deduct the fees for servicing these loans. This exemption is limited to community banks, which are located in less than ten states. A financial business that is located in more than ten states may not deduct from B&O tax amounts received from interest earnings on loans secured by first mortgages or deeds of trust on residential properties.

Summary of Bill: Beginning August 1, 2023, 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 business 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, 2024, and each October 15th thereafter, the Department of Revenue (DOR) is directed to estimate any increase in state general fund revenues as a result of repealing this deduction and notify the state treasurer of the estimated amounts. Beginning November 1, 2024, and by each November 1st thereafter, the state treasurer must transfer the estimated amount determined by DOR from the general fund into the housing trust fund. DOR may not make any adjustments to the estimate after the state treasurer makes the fund transfer.

The bill applies to interest received on or after August 1, 2023.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect on August 1, 2023.

Staff Summary of Public Testimony: PRO: Washington is experiencing a housing crisis. We need all options on the table to create more housing. The state needs more housing overall and increased access to that housing for all income levels. The original deduction was given on the idea that mortgage interest rates could be offered at a lower rate if the institutions were able to deduct interest on taxes. The housing market has been nationalized and local lenders can't make a huge difference with respect to interest rates in their local areas. The revenue from the repeal of the deduction would go to the housing trust fund, which has been successful historically. Development of affordable housing often relies on limited public funding. Increasing public funding for affordable housing would be beneficial. The state should explore creative and innovative ways to bridge the housing market gap like this one.

CON: Large national banks do not enjoy the deduction. This deferral is only used by community banks and local lenders. Many banks have stopped or slowed mortgage lending and eliminating the exemption would reduce the supply of mortgage credit for borrowers. Some people are willing to pay the premium to keep the money in the community, but there's a limit to the premium they're willing to pay. Many beneficial programs tailored to communities may be at risk should this deduction be repealed. Some smaller banks can create affordable loan programs at a lower rate than national banks and this bill would limit the ability for smaller banks to provide the lower rates. Now is not the time to place more tax burden on small lending entities. This proposal will do more to exacerbate the housing problem than to solve it. If you want more of something you subsidize it, if you want less, you tax it. The business of mortgages has shifted to independent mortgage lenders instead of banks.

Persons Testifying: PRO: Senator Patty Kuderer, Prime Sponsor; Rachael Myers, Washington Low Income Housing Alliance; Kim Herman, Partners for Rural Washington; Neal Black, Kirkland City Councilmember; Lisa Vatske, WSHFC; Michael White, King County.

CON: Brad Tower, Community Bankers of Washington; Josh Deck, Olympia Federal Savings; Tamra Rieger, Evergreen Home Loans, President; Glen Simecek, Washington Bankers Association; Mark Mason, HomeStreet Bank.

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