

SENATE BILL REPORT

E2SHB 1015

As of March 23, 2021

Title: An act relating to creating the Washington equitable access to credit act.

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

Sponsors: House Committee on Finance (originally sponsored by Representatives Maycumber, Chapman, Tharinger, Graham, Santos and Macri).

Brief History: Passed House: 3/9/21, 95-1.

Committee Activity: Business, Financial Services & Trade: 3/23/21.

Brief Summary of Bill

- Creates a business and occupation tax credit to fund grants through the Department of Commerce to certain community development financial institutions (CDFI) to provide loans to historically underserved communities.
- Provides at least 65 percent of the grant funds awarded each calendar year to native CDFIs, or 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.
- Restricts no more than 25 percent of all grants awarded in any calendar year from being awarded to the same CDFI.

SENATE COMMITTEE ON BUSINESS, FINANCIAL SERVICES & TRADE

Staff: Clinton McCarthy (786-7319)

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

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.

purposes. CDFIs work in economically distressed markets 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 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 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.

The Department of Commerce (Commerce) selected three CDFI partners to run the Early Learning Facilities loan program.

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 for businesses with taxable income of less than \$1 million, or 1.75 percent for 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. A taxpayer may be eligible to use 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.

All new tax preference legislation must include a tax preference performance statement, unless exempted.

Summary of Bill: 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.

Program Funding Through a Business and Occupation Tax Credit. A tax credit is authorized against B&O taxes otherwise due for persons that contribute to the program. The maximum credit that may be earned by a person each calendar year is the lesser of \$1 million or 100 percent of contributions made to the program. No credit may be earned for contributions made to the program on or after June 30, 2031.

No taxpayer may claim more than \$1 million in a calendar year, and the amount of credit

claimed may not exceed the amount of B&O tax due. Credits may be carried over for two years. No refunds may be granted for 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 the annual statewide limit has been met. Revenue must provide written notice to any person who has claimed tax credits in excess of the limitation.

Program Funds Disbursed Through the 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.

Funding Disbursed to Qualified Lending Institutions. Expenditures from the account may be used only for the award of grants to QLIs 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 the Internal Revenue Code; and
- able to demonstrate a history of lending in Washington.

A QLI must provide the following grant matching funds:

- at least 20 percent if recognized as an emerging CDFI;
- at least 50 percent if recognized as a certified CDFI with assets of fewer than \$3 million; or
- 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 is repaid to a QLI, the QLI must offer the repaid funds as new loans or investments consistent with the terms of the program for ten years from the date of the grant award.

Amount of Disbursements to Qualified Lending Institutions Subject to Grant Criteria. No more than 25 percent of all grants awarded in any calendar year may be awarded to the same grant recipient. At least 65 percent of the grant funds awarded each calendar year must be provided to native CDFIs, or 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.

When ranking grant applications, the following criteria must be considered:

- 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;
- 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.

Member Appointments to an Advisory Board to Rank Grant Applications. Commerce must appoint members to an advisory board that will assist in ranking grant applications. Commerce must seek to achieve a fair geographic balance of committee members and is encouraged to seek representation from members with relevant expertise, including the following: representatives of the banking industry who are familiar with CDFIs; economic development professionals who have experience in rural development; representatives of local government; and representatives of federally recognized Indian tribes.

Commerce may include additional criteria it deems helpful in achieving the goal of ensuring access to credit to underserved communities across the state.

Program Administration—Permitted Use of Funds From the Account. Up to 5 percent of the program revenues may be used for staffing and administrative costs incurred by state agencies for implementation of the program. In any year the total amount of B&O tax credits claimed does not reach the statewide limit, the percentage used for administration may be increased as necessary to maintain normal staffing operations, not to exceed 10 percent. Beginning in 2021, Commerce must submit an annual report to the Legislature that contains the following information:

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

Commerce may contract for all or part of the program's administration.

Qualified Lending Institution—Grant Reporting Requirements. A QLI receiving a grant under the program must submit an annual report to Commerce that includes:

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

Tax Preference Performance Statement and Expiration Date. The program expires on July 1, 2031. The 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 intent of the Legislature is also to extend the expiration date of the tax preference if a review by the Joint Legislative Audit and Review Committee finds 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: Available.

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

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

Staff Summary of Public Testimony: PRO: This is the greatest bill you will see all session. It is a bipartisan bill and has been worked through the Department of Commerce. This will work well in the post-COVID economy. So many small communities are using CDFIs because they cannot get traditional access to credit. This bill makes sure we can invest in areas that do not normally receive investment. We need to make sure that people have access to this credit. The loans are small for businesses that are just getting started. This helps support underserved communities pursue the American dream. We need to build back these underserved communities. This multiyear program would provide long term benefits to communities that struggle to receive access to capital. If this bill were to pass, CDFIs would put capital to work over and over again. This differs significantly from how credit unions and banks work—they are not as restricted on their capitalization requirements. CDFI's have been filling financial gaps for underserved communities since the 1970's. Banks provide loans to CDFIs. It is challenging for them to plan long term. This program would allow them to plan over a longer period of time. CDFIs would be bringing money to the table with the amount dependent on the size of the CDFI.

OTHER: Commerce is providing working capital to small businesses. This program will provide a sustained long term effort to address financial access in underserved communities. The Governor provided \$30 million in December for loans to be run through CDFIs.

Persons Testifying: PRO: Representative Jacquelin Maycumber, Prime Sponsor; Tommy Gantz, Association of Washington Business; Patricia Kibbe, Evergreen Business Capital; Nancy Jordan, Lummi CDFI, Director of Development; Chuck Depew, National Development Council; Michael Moran, Confederated Tribes of the Colville Reservation.

OTHER: Keith Swenson, Washington State Department of Commerce.

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