
SECOND SUBSTITUTE HOUSE BILL 1015

State of Washington

67th Legislature

2021 Regular Session

By House Finance (originally sponsored by Representatives Maycumber, Chapman, Tharinger, Graham, Santos, and Macri)

READ FIRST TIME 02/19/21.

1 AN ACT Relating to creating the Washington equitable access to
2 credit act; adding a new section to chapter 82.04 RCW; adding a new
3 chapter to Title 43 RCW; creating a new section; and providing
4 expiration dates.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** This chapter may be known and cited as the
7 Washington equitable access to credit act.

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04
9 RCW to read as follows:

10 (1) Subject to the limitations in this section, a credit is
11 allowed against the tax imposed under this chapter for contributions
12 made by a person to the equitable access to credit program created in
13 chapter 43.--- RCW (the new chapter created in section 7 of this
14 act).

15 (2)(a) The person must make the contribution before claiming a
16 credit authorized under this section. The credit may be used against
17 any tax due under this chapter. The amount of the credit claimed for
18 a reporting period may not exceed the tax otherwise due under this
19 chapter for that reporting period. No person may claim more than
20 \$1,000,000 of credit in any calendar year, including credit carried

1 over from a previous calendar year. No refunds may be granted for any
2 unused credits.

3 (b) Any amount of tax credit otherwise allowable under this
4 section not claimed by the person in any calendar year may be carried
5 forward and claimed against a person's tax liability for the next
6 succeeding calendar year; and any credit not used in that next
7 succeeding calendar year may be carried forward and claimed against
8 the person's tax liability for the second succeeding calendar year,
9 but may not be carried over for any calendar year thereafter.

10 (3) Credits are available on a first-in-time basis. The
11 department must disallow any credits, or portions thereof, that would
12 cause the total amount of credits claimed under this section for any
13 calendar year to exceed \$8,000,000. If this limitation is reached,
14 the department must notify the department of commerce that the annual
15 statewide limit has been met. In addition, the department must
16 provide written notice to any person who has claimed tax credits in
17 excess of the limitation in this subsection. The notice must indicate
18 the amount of tax due and provide the tax be paid within 30 days from
19 the date of the notice. The department may not assess penalties and
20 interest as provided in chapter 82.32 RCW on the amount due in the
21 initial notice if the amount due is paid by the due date specified in
22 the notice, or any extension thereof.

23 (4) To claim a credit under this section, a person must
24 electronically file with the department all returns, forms, and any
25 other information required by the department, in an electronic format
26 as provided or approved by the department. Any return, form, or
27 information required to be filed in an electronic format under this
28 section is not filed until received by the department in electronic
29 format. As used in this subsection, "returns" has the same meaning as
30 "return" in RCW 82.32.050.

31 (5) No application is necessary for the tax credit. The person
32 must keep records necessary for the department to verify eligibility
33 under this section.

34 (6) The equitable access to credit program must provide to the
35 department, upon request, such information as may be needed to verify
36 eligibility for credit under this section, including information
37 regarding contributions received by the program.

38 (7) The maximum credit that may be earned for each calendar year
39 under this section for a person is limited to the lesser of

1 \$1,000,000 or an amount equal to 100 percent of the contributions
2 made by the person to the equitable access to credit program.

3 (8) No credit may be earned for contributions made on or after
4 June 30, 2031. Credits may be claimed as provided in subsections (2)
5 through (4) of this section.

6 (9) For the purposes of this section, "equitable access to credit
7 program" means a program established within the department of
8 commerce pursuant to section 3 of this act.

9 (10) The provisions of chapter 82.32 RCW apply to the
10 administration of this section.

11 (11) This section expires July 1, 2031.

12 NEW SECTION. **Sec. 3.** (1) Subject to appropriation, the
13 department of commerce shall create and operate the equitable access
14 to credit program. The purpose of the equitable access to credit
15 program is to award grants to qualified lending institutions, using
16 funds generated by business and occupation tax credits created in
17 section 2 of this act, for the purpose of providing access to credit
18 for historically underserved communities. The equitable access to
19 credit program must be governed by the provisions of this chapter and
20 by any guidelines developed and rules adopted by the department of
21 commerce pursuant to this chapter.

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

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

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

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

33 (d) No more than 30 percent of program revenues may be used for
34 staffing and other administrative costs.

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

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

39 (i) An emerging community development financial institution; or

1 (ii) A certified community development financial institution;
2 (b) Match any grant awarded by the equitable access to credit
3 program on:
4 (i) At least a 20 percent basis, if the institution is recognized
5 by the United States department of the treasury as an emerging
6 community development financial institution;
7 (ii) At least a 50 percent basis, if the institution:
8 (A) Is recognized by the United States department of the treasury
9 as a certified community development financial institution; and
10 (B) Has net assets of fewer than \$3,000,000 at the time of the
11 grant application; or
12 (iii) At least a one-to-one basis, if the institution:
13 (A) Is recognized by the United States department of the treasury
14 as a certified emerging community development financial institution;
15 and
16 (B) Has net assets of \$3,000,000 or more at the time of the grant
17 application;
18 (c) Be registered as a nonprofit organization exempt from
19 taxation under Title 26 U.S.C. Sec. 501(c)(3) of the federal internal
20 revenue code of 1986, as amended, as of the effective date of this
21 section; and
22 (d) Demonstrate a history of lending in Washington.
23 (4) The director must appoint members to an advisory board that
24 will assist the department in ranking applications for the grants.
25 The department is encouraged to seek representation from members with
26 relevant expertise, including those from the banking industry
27 familiar with community development financial institutions, rural
28 economic development professionals, local government representatives,
29 and representatives from federally recognized Indian tribes. The
30 department shall seek, to the greatest extent possible, a fair
31 geographic balance.
32 (5)(a) The following criteria must be considered in ranking
33 applications:
34 (i) The number and total value of loans and investments closed
35 during the previous five-year period by the qualified lending
36 institution in Washington and the percentage of those loans and
37 investments that went to historically underserved communities;
38 (ii) Funds leveraged by the proposed grant award, which may be no
39 less than one-to-one for certified community development financial

1 institutions with net assets of \$3,000,000 or more at the time of the
2 grant application;

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

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

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

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

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

19 (6) Grants may be awarded from the equitable access to credit
20 program beginning six months after the first tax credits are claimed
21 pursuant to section 2 of this act. Grant awards must cease from the
22 equitable access to credit program upon the expiration of this
23 chapter.

24 (7) Once a loan or investment made by a qualified lending
25 institution using funds awarded from the equitable access to credit
26 program has been repaid, the qualified lending institution must
27 reloan the repaid funds consistent with the terms of this chapter for
28 a period of 10 years from the date of the grant award.

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

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

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

37 (ii) The amount of the loan or investment;

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

40 (iv) The interest rate and interest type;

- 1 (v) The term;
- 2 (vi) The number of permanent full-time equivalent jobs projected
3 to be created in the business due to this financing;
- 4 (vii) Whether the loan or investment utilized a guarantee
5 program;
- 6 (viii) The North American industry classification system code;
- 7 (ix) The entity structure;
- 8 (x) Whether the investee or borrower is more than 50 percent
9 owned or controlled by:
- 10 (A) One or more minorities;
- 11 (B) One or more women; or
- 12 (C) One or more low-income persons;
- 13 (xi) The race of the primary investee(s) or borrower(s);
- 14 (xii) Whether the primary investee or borrower is Hispanic or
15 Latino; and
- 16 (xiii) The location, by city and county, in which funds from the
17 program will be invested;
- 18 (b) Certification that each loan or investment made using funds
19 from the program was to a historically underserved community; and
- 20 (c) Other information as required by the department of commerce.
- 21 (9) No later than September 15th of each year, beginning in 2021,
22 the department of commerce must submit a report to the appropriate
23 committees of the legislature that contains the following
24 information:
- 25 (a) The list of grant applicants, total value of grants
26 requested, and the location of each applicant;
- 27 (b) The list of grant recipients, total amount of awards, and
28 required match amounts; and
- 29 (c) On an aggregate basis, information on loans and investments
30 as reported under subsection (8) of this section.
- 31 (10) The department may contract for all or part of the
32 administration of this section.
- 33 (11) The department may adopt rules as necessary to implement
34 this section.

35 NEW SECTION. **Sec. 4.** The equitable access to credit program
36 account is created in the custody of the state treasurer. All
37 receipts from contributions to the equitable access to credit program
38 created by this chapter must be deposited in the account.
39 Expenditures from the account may be used only for the award of

1 grants to qualified lending institutions from the equitable access to
2 credit program. Only the director of the department of commerce or
3 the director's designee may authorize expenditures from the account.
4 The account is subject to allotment procedures under chapter 43.88
5 RCW, but an appropriation is not required for expenditures. Any funds
6 remaining in the account upon the expiration of this chapter must be
7 transferred to the state general fund.

8 NEW SECTION. **Sec. 5.** (1) This section is the tax preference
9 performance statement for the tax preference contained in section 2,
10 chapter . . ., Laws of 2021 (section 2 of this act). This performance
11 statement is only intended to be used for subsequent evaluation of
12 the tax preference. It is not intended to create a private right of
13 action by any party or to be used to determine eligibility for
14 preferential tax treatment.

15 (2) The legislature categorizes this tax preference as one
16 intended to create or retain jobs pursuant to RCW 82.32.808(2)(c), as
17 well as encourage community and economic development within
18 communities that have historically lacked access to capital.

19 (3) It is the legislature's specific public policy objective to
20 create a program that encourages investment in small, underserved
21 businesses to encourage community and economic development in
22 Washington.

23 (4) The legislature intends to extend the expiration date of this
24 tax preference if a review finds that the equitable access to credit
25 program has had a net positive impact on investment in communities
26 historically underserved by credit and on state and local tax
27 revenues. In conducting its review under this section, the joint
28 legislative audit and review committee should consider, among other
29 data:

30 (a) The number and aggregate amount of loans and investments
31 originated under the program, including with revolved dollars;

32 (b) Overall match, including project leverage, invested by grant
33 recipients, which should exceed a one-to-one ratio;

34 (c) The balance sheet growth of community development financial
35 institutions that received grants from the program;

36 (d) Whether participants in the program achieved balance sheet
37 growth during the time of their participation in the program;

1 (e) The percentage of community development financial
2 institutions in Washington that received funding from the program;
3 and

4 (f) The level of ongoing demand for funding from the program.

5 (5) In order to obtain the data necessary to perform the review
6 in subsection (4) of this section, the joint legislative audit and
7 review committee may refer to any data collected by the state.

8 (6) This section expires July 1, 2031.

9 NEW SECTION. **Sec. 6.** This chapter expires July 1, 2031.

10 NEW SECTION. **Sec. 7.** Sections 1, 3, 4, and 6 of this act
11 constitute a new chapter in Title 43 RCW.

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