

CERTIFICATION OF ENROLLMENT
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1015

67th Legislature
2022 Regular Session

Passed by the House March 8, 2022
Yeas 98 Nays 0

**Speaker of the House of
Representatives**

Passed by the Senate March 4, 2022
Yeas 46 Nays 2

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1015** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1015

AS AMENDED BY THE SENATE

Passed Legislature - 2022 Regular Session

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 6 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, 2027. Credits may be claimed as provided in subsections (2)
5 through (4) of this section; however, credits may not be claimed
6 prior to January 1, 2023.

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

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

12 (11) This section expires July 1, 2027.

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

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

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

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

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

34 (d) Beginning in fiscal year 2022, up to five percent of the
35 program revenues may be used for all agencies' staffing and other
36 administrative costs related to the implementation of this act. In
37 the event that the statewide limit in section 2(3) of this act is not
38 reached, the percentage used for administration may be increased as

1 necessary to maintain normal staffing operations, not to exceed 10
2 percent.

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

5 (a) Be recognized by the United States department of the treasury
6 as:

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

8 (ii) A certified community development financial institution;

9 (b) Match any grant awarded by the equitable access to credit
10 program on:

11 (i) At least a five percent basis, if the institution is
12 recognized by the United States department of the treasury as an
13 emerging community development financial institution;

14 (ii) At least a 10 percent basis, if the institution:

15 (A) Is recognized by the United States department of the treasury
16 as a certified community development financial institution; and

17 (B) Has net assets of fewer than \$3,000,000 at the time of the
18 grant application; or

19 (iii) At least a 25 percent basis, if the institution:

20 (A) Is recognized by the United States department of the treasury
21 as a certified emerging community development financial institution;
22 and

23 (B) Has net assets of \$3,000,000 or more at the time of the grant
24 application;

25 (c) Be registered as a nonprofit organization exempt from
26 taxation under Title 26 U.S.C. Sec. 501(c)(3) of the federal internal
27 revenue code of 1986, as amended, as of the effective date of this
28 section; and

29 (d) Demonstrate a history of lending in Washington.

30 (4) The director must appoint members to an advisory board that
31 will assist the department in ranking applications for the grants.
32 The department is encouraged to seek representation from members with
33 relevant expertise, including those from the banking industry
34 familiar with community development financial institutions, rural
35 economic development professionals, local government representatives,
36 and representatives from federally recognized Indian tribes. The
37 department shall seek, to the greatest extent possible, a fair
38 geographic balance.

39 (5)(a) The following criteria must be considered in ranking
40 applications:

1 (i) The number and total value of loans and investments closed
2 during the previous five-year period by the qualified lending
3 institution in Washington and the percentage of those loans and
4 investments that went to historically underserved communities;

5 (ii) Funds leveraged by the proposed grant award, which may be no
6 less than 25 percent for certified community development financial
7 institutions with net assets of \$3,000,000 or more at the time of the
8 grant application;

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

11 (iv) How the award supports the growth of the qualified lending
12 institution;

13 (v) Past performance of loans and investments made by the
14 qualified lending institution including, where applicable, past
15 performance of loans and investments made using funds from the
16 equitable access to credit program; and

17 (vi) Awards to a diversity of qualified lending institution
18 awardees, including institutions of different sizes or with different
19 target markets or products, access to historically underserved
20 communities, or other differentiators that ensure a broad-base access
21 to capital.

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

25 (6) Grants may be awarded from the equitable access to credit
26 program beginning six months after the first tax credits are claimed
27 pursuant to section 2 of this act. Grant awards must cease from the
28 equitable access to credit program upon the expiration of this
29 chapter.

30 (7) No loan or investment made by a qualified lending institution
31 using funds awarded from the equitable access to credit program may
32 have an interest rate that exceeds 200 basis points above the Wall
33 Street Journal prime rate when the loan or investment is made.

34 (8) Once a loan or investment made by a qualified lending
35 institution using funds awarded from the equitable access to credit
36 program has been repaid, the qualified lending institution must
37 reloan the repaid funds consistent with the terms of this chapter.

38 (9) A qualified lending institution that receives funds from the
39 equitable access to credit program must submit a report to the

1 department of commerce by June 30th of each year that contains the
2 following information:

3 (a) A list of loans and investments made using funds from the
4 equitable access to credit program's grant and associated match,
5 including, on a per-borrower or per-investee basis:

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

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

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

10 (iv) The interest rate and interest type;

11 (v) The Wall Street Journal prime rate at the time the loan or
12 investment is made;

13 (vi) The term;

14 (vii) The number of permanent full-time equivalent jobs projected
15 to be created in the business due to this financing;

16 (viii) Whether the loan or investment utilized a guarantee
17 program;

18 (ix) The North American industry classification system code;

19 (x) The entity structure;

20 (xi) Whether the investee or borrower is more than 50 percent
21 owned or controlled by:

22 (A) One or more minorities;

23 (B) One or more women; or

24 (C) One or more low-income persons;

25 (xii) The race of the primary investee(s) or borrower(s);

26 (xiii) Whether the primary investee or borrower is Hispanic or
27 Latino; and

28 (xiv) The location, by city and county, in which funds from the
29 program will be invested;

30 (b) Certification that each loan or investment made using funds
31 from the program was to a historically underserved community; and

32 (c) Other information as required by the department of commerce.

33 (10) No later than September 15th of each year, beginning in
34 2022, the department of commerce must submit a report to the
35 appropriate committees of the legislature that contains the following
36 information:

37 (a) The list of grant applicants, total value of grants
38 requested, and the location of each applicant;

39 (b) The list of grant recipients, total amount of awards, and
40 required match amounts; and

1 (c) On an aggregate basis, information on loans and investments
2 as reported under subsection (9) of this section.

3 (11) The department may contract for all or part of the
4 administration of this section.

5 (12) The department may adopt rules as necessary to implement
6 this section.

7 NEW SECTION. **Sec. 4.** The equitable access to credit program
8 account is created in the custody of the state treasurer. All
9 receipts from contributions to the equitable access to credit program
10 created by this chapter must be deposited in the account.
11 Expenditures from the account may be used only for the award of
12 grants to qualified lending institutions from the equitable access to
13 credit program and administrative costs pursuant to section 3 of this
14 act. Only the director of the department of commerce or the
15 director's designee may authorize expenditures from the account. The
16 account is subject to allotment procedures under chapter 43.88 RCW,
17 but an appropriation is not required for expenditures. Any funds
18 remaining in the account upon the expiration of this chapter must be
19 transferred to the state general fund.

20 NEW SECTION. **Sec. 5.** (1) This section is the tax preference
21 performance statement for the tax preference contained in section 2,
22 chapter . . ., Laws of 2022 (section 2 of this act). This performance
23 statement is only intended to be used for subsequent evaluation of
24 the tax preference. It is not intended to create a private right of
25 action by any party or to be used to determine eligibility for
26 preferential tax treatment.

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

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

35 (4) The legislature intends to extend the expiration date of this
36 tax preference if a review finds that the equitable access to credit
37 program has had a net positive impact on investment in communities
38 historically underserved by credit and on state and local tax

1 revenues. In conducting its review under this section, the joint
2 legislative audit and review committee should consider, among other
3 data:

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

6 (b) Overall match, including project leverage, invested by grant
7 recipients;

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

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

12 (e) The percentage of community development financial
13 institutions in Washington that received funding from the program;
14 and

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

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

19 (6) This section expires July 1, 2027.

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

--- END ---