
HOUSE BILL 2078

State of Washington

62nd Legislature

2011 Regular Session

By Representatives Jenkins, Reykdal, Lytton, Billig, Frockt, Moscoso, Fitzgibbon, Tharinger, Ryu, Ladenburg, Stanford, Sullivan, Green, Van De Wege, Moeller, Springer, Pettigrew, Maxwell, Dickerson, Kagi, Ormsby, Upthegrove, Hasegawa, Appleton, Rolfes, McCoy, Carlyle, Lias, Kenney, Eddy, Darneille, Pedersen, Orwall, Hunt, Cody, Kirby, Roberts, Takko, Blake, Seaquist, Goodman, Haigh, Hudgins, Dunshee, Sells, Finn, Clibborn, and Morris

Read first time 04/12/11. Referred to Committee on Ways & Means.

1 AN ACT Relating to funding K-3 class size reductions by narrowing
2 and repealing certain tax exemptions; amending RCW 82.04.4292 and
3 83.100.230; adding a new section to chapter 82.32 RCW; creating a new
4 section; repealing RCW 82.08.0273; and providing an effective date.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that Washington's
7 best opportunity for long-term success rests with the further
8 development of our public educational system. The legislature further
9 finds that smaller classes in the early grades can significantly
10 increase the amount of learning that takes place in the classroom.

11 (2) It is the intent of the legislature to fully fund critical K-3
12 class size reductions by significantly narrowing a tax deduction for
13 banks and other financial institutions, and repealing a sales tax
14 exemption for nonresidents.

15 **Sec. 2.** RCW 82.04.4292 and 2010 1st sp.s. c 23 s 301 are each
16 amended to read as follows:

17 (1) In computing tax there may be deducted from the measure of tax
18 by those engaged in banking, loan, security or other financial

1 businesses, interest received on investments or loans primarily secured
2 by first mortgages or trust deeds on nontransient residential
3 properties.

4 (2) Interest deductible under this section includes the portion of
5 fees charged to borrowers, including points and loan origination fees,
6 that is recognized over the life of the loan as an adjustment to yield
7 in the taxpayer's books and records according to generally accepted
8 accounting principles.

9 (3) Subsections (1) and (2) of this section notwithstanding, the
10 following is a nonexclusive list of items that are not deductible under
11 this section:

12 (a) Fees for specific services such as: Document preparation fees;
13 finder fees; brokerage fees; title examination fees; fees for credit
14 checks; notary fees; loan application fees; interest lock-in fees if
15 the loan is not made; servicing fees; and similar fees or amounts;

16 (b) Fees received in consideration for an agreement to make funds
17 available for a specific period of time at specified terms, commonly
18 referred to as commitment fees;

19 (c) Any other fees, or portion of a fee, that is not recognized
20 over the life of the loan as an adjustment to yield in the taxpayer's
21 books and records according to generally accepted accounting
22 principles;

23 (d) Gains on the sale of valuable rights such as service release
24 premiums, which are amounts received when servicing rights are sold;
25 and

26 (e) Gains on the sale of loans, except deferred loan origination
27 fees and points deductible under subsection (2) of this section, are
28 not to be considered part of the proceeds of sale of the loan.

29 (4) Notwithstanding subsection (3) of this section, in computing
30 tax there may be deducted from the measure of tax by those engaged in
31 banking, loan, security, or other financial businesses, amounts
32 received for servicing loans primarily secured by first mortgages or
33 trust deeds on nontransient residential properties, including such
34 loans that secure mortgage-backed or mortgage-related securities, but
35 only if:

36 (a)(i) The loans were originated by the person claiming a deduction
37 under this subsection (4) and that person either sold the loans on the

1 secondary market or securitized the loans and sold the securities on
2 the secondary market; or

3 (ii)(A) The person claiming a deduction under this subsection (4)
4 acquired the loans from the person that originated the loans through a
5 merger or acquisition of substantially all of the assets of the person
6 who originated the loans, or the person claiming a deduction under this
7 subsection (4) is affiliated with the person that originated the loans.
8 For purposes of this subsection, "affiliated" means under common
9 control. "Control" means the possession, directly or indirectly, of
10 more than fifty percent of the power to direct or cause the direction
11 of the management and policies of a person, whether through the
12 ownership of voting shares, by contract, or otherwise; and

13 (B) Either the person who originated the loans or the person
14 claiming a deduction under this subsection (4) sold the loans on the
15 secondary market or securitized the loans and sold the securities on
16 the secondary market; and

17 (b) The amounts received for servicing the loans are determined by
18 a percentage of the interest paid by the borrower and are only received
19 if the borrower makes interest payments.

20 (5) The total amount a person may deduct under this section for any
21 calendar year may not exceed one hundred million dollars.

22 NEW SECTION. Sec. 3. RCW 82.08.0273 (Exemptions--Sales to
23 nonresidents of tangible personal property, digital goods, and digital
24 codes for use outside the state--Proof of nonresident status--
25 Penalties) and 2011 c 7 s 1, 2010 c 106 s 215, 2009 c 535 s 512, 2007
26 c 135 s 2, 2003 c 53 s 399, 1993 c 444 s 1, 1988 c 96 s 1, 1982 1st
27 ex.s. c 5 s 1, & 1980 c 37 s 39 are each repealed.

28 NEW SECTION. Sec. 4. A new section is added to chapter 82.32 RCW
29 to read as follows:

30 By June 1, 2012, and by June 1st of every year thereafter, the
31 department must annually estimate the increase in state revenue for the
32 current fiscal year resulting from the changes made to the deduction
33 for banks and other financial institutions under section 2 of this act
34 and the repeal of the nonresident sales tax exemption in section 3 of
35 this act, and certify the estimated amounts to the state treasurer. By

1 July 1, 2012, and by July 1st of every year thereafter, the state
2 treasurer must transfer the certified amount into the education legacy
3 account created in RCW 83.100.230.

4 **Sec. 5.** RCW 83.100.230 and 2010 1st sp.s. c 37 s 953 are each
5 amended to read as follows:

6 The education legacy trust account is created in the state
7 treasury. Money in the account may be spent only after appropriation.
8 Except as otherwise provided in this section, expenditures from the
9 account may be used only for ((~~deposit into the student achievement~~
10 fund)) the support of the common schools and for expanding access to
11 higher education through funding for new enrollments and financial aid,
12 and other educational improvement efforts. ((~~During the 2009-2011~~
13 fiscal biennium, moneys in the account may also be transferred into the
14 state general fund.)) Money deposited into the account as required in
15 section 4 of this act must be used only for K-3 class size reductions.

16 NEW SECTION. **Sec. 6.** This act takes effect August 1, 2011.

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