FINAL BILL REPORT
E2SHB 1015

C 189 L 22
Synopsis as Enacted

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).

House Committee on Consumer Protection & Business
House Committee on Finance
House Committee on Appropriations
Senate Committee on Business, Financial Services & Trade
Senate Committee on Ways & Means

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 purposes, which include institutions such as community development banks, credit unions, and venture capital funds. Community development financial institutions work in economically distressed markets that are underserved by traditional financial institutions and provide financial products such as mortgage financing for low-income homebuyers and not-for-profit developers, 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 in 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. As of March 2022, 33 certified CDFIs were operating in Washington.

Business and Occupation Taxes.
Washington imposes a business and occupation (B&O) tax on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. A taxpayer may have more than one B&O tax rate, depending on the types of activities

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conducted, including 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.5 percent or 1.75 percent for services and for activities not classified elsewhere. In addition, a taxpayer may be eligible to utilize other tax preferences, including credits and deductions, to reduce tax liability. The B&O taxes are collected by the Department of Revenue (Revenue) and deposited into the State General Fund.

Tax Preference Performance Statement and Expiration Date.
All new tax preference legislation must include a tax preference performance statement unless exempted. Tax preferences include deductions, exemptions, preferential tax rates, and tax credits. The performance statement must clearly specify the public policy objectives of the tax preference and the specific metrics and data that will be used by the Joint Legislative Audit and Review Committee (JLARC) to evaluate the efficacy of the tax preference. New tax preferences expire 10 years after the effective date of the tax preference, unless otherwise provided.

Summary:

The Department of Commerce (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.

Eligibility Requirements.
To receive grant funding under the Program, a QLI must be:
- recognized by the Treasury as an emerging or certified CDFI;
- registered as a 501(c)(3) nonprofit organization exempt from taxation of the Internal Revenue Code; and
- able to demonstrate a history of lending in Washington.

In addition, a QLI must provide grant matching funds of: (1) at least 5 percent if recognized as an emerging CDFI; (2) at least 10 percent if recognized as a certified CDFI with assets of fewer than $3 million; or (3) at least 25 percent if recognized as a certified CDFI with assets of $3 million or more.

No loan or investment made by a QLI using funds awarded from the Program may have an interest rate that exceeds 200 basis points above the Wall Street Journal prime rate when the loan or investment is made. 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 indefinitely.

Review Committee.
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: (1) representatives of the banking industry who are familiar with CDFIs; (2) economic development professionals who have experience in rural development; (3) representatives of local government; and (4) representatives of federally recognized Indian tribes.

<u>Grant Criteria</u>.
No more than 25 percent of all grants awarded in any calendar year may be awarded to the same grant recipient. In addition, 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.

In 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.

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

<u>Program Administration</u>.
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 that 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.

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

<u>Reporting by Qualified Lending Institutions</u>.
A QLI receiving a grant under the Program must submit an annual report to Commerce that includes:

1. 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;
2. certification that each loan or investment was to historically underserved communities; and
3. other information required by Commerce.

Reporting by the Department of Commerce.
Beginning in 2022, Commerce must submit an annual report to the Legislature by September 15 that contains the following information:
1. the list of grant applicants, the total value of grants requested, and the location of each applicant;
2. the list of grant recipients, the total amount of awards, and required match amounts; and
3. aggregated information on loans and investments provided by the QLIs receiving grants.

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, 2027, and no credit may be claimed prior to January 1, 2023.

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, but 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 that the annual statewide limit has been met. In addition, Revenue must provide written notice to any person who has claimed tax credits exceeding the limitation.

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. Expenditures from the Account may be used only for the award of grants to the QLIs under the Program. Any funds remaining in the Account when the Program expires must be transferred to the State General Fund.

Tax Preference Performance Statement and Expiration Date.
The Program expires on July 1, 2027. The stated 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. It is also the

stated intent of the Legislature to extend the expiration date of the tax preference if a review by the JLARC finds that the Program has a net positive impact on investment in communities historically underserved by credit and on state and local tax revenues.

Votes on Final Passage:

House	95	1	
House	97	0	
Senate	46	2	(Senate amended)
House	98	0	(House concurred)

Effective: June 9, 2022