
SUBSTITUTE HOUSE BILL 1015

State of Washington

67th Legislature

2021 Regular Session

By House Consumer Protection & Business (originally sponsored by Representatives Maycumber, Chapman, Tharinger, Graham, Santos, and Macri)

READ FIRST TIME 01/25/21.

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) 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 and may be carried over until used.
18 The amount of the credit claimed for a reporting period may not
19 exceed the tax otherwise due under this chapter for that reporting
20 period. No person may claim more than one million dollars of credit

1 in any calendar year, including credit carried over from a previous
2 calendar year. No refunds may be granted for any unused credits.

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

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

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

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

31 (7) The department may not allow any credit under this section
32 before January 1, 2021.

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

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

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

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

2 NEW SECTION. **Sec. 3.** (1) The department of commerce shall
3 create and operate the equitable access to credit program. The
4 purpose of the equitable access to credit program is to award grants
5 to qualified lending institutions, using funds generated by business
6 and occupation tax credits created in section 2 of this act, for the
7 purpose of providing access to credit for historically underserved
8 communities. The equitable access to credit program must be governed
9 by the provisions of this chapter and by guidelines and rules adopted
10 by the department of commerce pursuant to this chapter.

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

13 (a) No more than twenty-five percent of all grants awarded in any
14 calendar year may be awarded to the same grant recipient;

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

18 (c) At least seventy-five percent of the value of all grants
19 awarded in any calendar year must be provided for grantees to provide
20 services or invest, or both, in rural counties as defined in RCW
21 82.14.370.

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

24 (a) Be recognized by the United States department of the treasury
25 as:

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

27 (ii) A certified community development financial institution;

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

30 (i) At least a twenty percent basis, if the institution is
31 recognized by the United States department of the treasury as an
32 emerging community development financial institution;

33 (ii) At least a fifty percent basis, if the institution:

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

36 (B) Has net assets of fewer than three million dollars at the
37 time of the grant application; or

38 (iii) At least a one-to-one basis, if the institution:

1 (A) Is recognized by the United States department of the treasury
2 as a certified emerging community development financial institution;
3 and

4 (B) Has net assets of three million or more dollars at the time
5 of the grant application;

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

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

11 (4) Grants from the equitable access to credit program to a
12 qualified lending institution will be awarded by a review committee.
13 The department of commerce is responsible for convening and staffing
14 the review committee. The department of commerce shall seek, to the
15 greatest extent possible, to achieve a fair geographic balance in the
16 composition of the review committee. The department of commerce is
17 encouraged to seek representation on the committee from the
18 following: Representatives of the banking industry who are familiar
19 with community development financial institutions; economic
20 development professionals who have experience in rural development;
21 representatives of local government; representatives of federally
22 recognized Indian tribes; and small business representatives who have
23 experience working with community development financial institutions
24 or in rural development.

25 (5) In making awards from the equitable access to credit program,
26 the review committee must consider the following:

27 (a) The number and total value of loans and investments closed
28 during the previous five-year period by the qualified lending
29 institution in Washington and the percentage of those loans and
30 investments that went to historically underserved communities;

31 (b) Funds leveraged by the proposed grant award, which may be no
32 less than one-to-one for certified community development financial
33 institutions with net assets of three million or more dollars at the
34 time of the grant application;

35 (c) Projected loan or investment production with the award over
36 the performance period of the grant;

37 (d) How the award supports the growth of the qualified lending
38 institution;

39 (e) Past performance of loans and investments made by the
40 qualified lending institution including, where applicable, past

1 performance of loans and investments made using funds from the
2 equitable access to credit program; and

3 (f) Awards to a diversity of qualified lending institution
4 awardees, including institutions of different sizes or with different
5 target markets or products, access to historically underserved
6 communities, or other differentiators that ensure a broad-base access
7 to capital.

8 (6) The department of commerce may award grants from the
9 equitable access to credit program beginning six months after the
10 first tax credits are claimed pursuant to section 2 of this act. The
11 department of commerce must cease to award grants from the equitable
12 access to credit program upon the expiration of this chapter.

13 (7) Once a loan or investment made by a qualified lending
14 institution using funds awarded from the equitable access to credit
15 program has been repaid, the qualified lending institution must
16 reloan the repaid funds consistent with the terms of this chapter for
17 a period of ten years from the date of the grant award.

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

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

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

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

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

29 (iv) The interest rate and interest type;

30 (v) The term;

31 (vi) The number of permanent full-time equivalent jobs projected
32 to be created in the business due to this financing;

33 (vii) Whether the loan or investment utilized a guarantee
34 program;

35 (viii) The North American industry classification system code;

36 (ix) The entity structure;

37 (x) Whether the investee or borrower is more than fifty percent
38 owned or controlled by:

39 (A) One or more minorities;

40 (B) One or more women; or

- 1 (C) One or more low-income persons;
- 2 (xi) The race of the primary investee(s) or borrower(s);
- 3 (xii) Whether the primary investee or borrower is Hispanic or
- 4 Latino; and
- 5 (xiii) The location, by city and county, in which funds from the
- 6 program will be invested;
- 7 (b) Certification that each loan or investment made using funds
- 8 from the program was to a historically underserved community; and
- 9 (c) Other information as required by the department of commerce.
- 10 (9) No later than September 15th of each year, beginning in 2021,
- 11 the department of commerce must submit a report to the appropriate
- 12 committees of the legislature that contains the following
- 13 information:
- 14 (a) The list of grant applicants, total value of grants
- 15 requested, and the location of each applicant;
- 16 (b) The list of grant recipients, total amount of awards, and
- 17 required match amounts; and
- 18 (c) On an aggregate basis, information on loans and investments
- 19 as reported under subsection (8) of this section.

20 NEW SECTION. **Sec. 4.** The equitable access to credit program

21 account is created in the custody of the state treasurer. All

22 receipts from contributions to the equitable access to credit program

23 created by this chapter must be deposited in the account.

24 Expenditures from the account may be used only for the award of

25 grants to qualified lending institutions from the equitable access to

26 credit program. Only the director of the department of commerce or

27 the director's designee may authorize expenditures from the account.

28 The account is subject to allotment procedures under chapter 43.88

29 RCW, but an appropriation is not required for expenditures. Any funds

30 remaining in the account upon the expiration of this chapter must be

31 transferred to the state general fund.

32 NEW SECTION. **Sec. 5.** (1) This section is the tax preference

33 performance statement for the tax preference contained in section 2,

34 chapter . . ., Laws of 2021 (section 2 of this act). This performance

35 statement is only intended to be used for subsequent evaluation of

36 the tax preference. It is not intended to create a private right of

37 action by any party or to be used to determine eligibility for

38 preferential tax treatment.

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

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

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

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

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

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

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

24 (e) The percentage of community development financial
25 institutions in Washington that received funding from the program;
26 and

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

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

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

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

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

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