Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author:	Ridley-Thomas	Analyst:	Nicole Kwon	Bill Number:	AB 2831
Related Bills:	See Legislative History	Telephone:	845-7800	Introduced Date	February 24, 2006
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT:	Community Development Financial Institution Credit/Extend Repeal Date To January 1, 2017, Increase Aggregate Limit To 25 Million Dollars Per Year & Make Changes To Certification

SUMMARY

This bill would make changes to the Community Development Financial Institution (CDFI) Credit including extending the repeal date.

This bill would make multiple other changes to the Revenue and Taxation Code. These changes will only be discussed to the extent they impact the Franchise Tax Board (FTB).

PURPOSE OF THE BILL

According to the author's office, the purpose of the bill is to continue to allow taxpayers a credit for depositing money into CDFIs.

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective immediately upon enactment and, by extending the existing repeal date to 2017, would make the credit continue to be operative beyond 2006.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

Existing federal law allows a credit equal to 5 percent of contributions, up to $2 million for each corporate taxpayer, to community development corporations (CDCs), but not for deposits into a CDFI. The Secretary of Housing and Urban Development may select 20 CDCs as eligible to receive contributions for purposes of this credit. Each CDC must be tax-exempt under federal law and promote employment and business opportunities for low-income individuals.

Existing state law has not conformed to the federal credit for contributions to a community development corporation; however, current state law allows a credit equal to 20 percent of each qualified deposit made by any taxpayer into a CDFI. A qualified deposit is defined as a deposit

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that does not earn interest or an equity investment that is equal to or greater than $50,000 and is made for a minimum duration of 60 months. A CDFI is defined as a private financial institution located in California and certified by the California Organized Investment Network (COIN) that has community development as its primary mission and lends in urban, rural, or reservation-based communities in California. A CDFI may include a community development bank, a community development loan fund, a community development credit union, a microenterprise fund, a community development corporation-based lender, and a community development venture fund.

State law limits the aggregate amount of qualified deposits made by all taxpayers to $10 million for each calendar year.

The credit applies for taxable years beginning on or after January 1, 1997, and before January 1, 2007.

State law requires COIN, or its successor, to certify and issue certificates for each CDFI, for each qualified deposit, and for the total amount of credit allocated. COIN also is required to provide FTB with an annual list of taxpayers, including their identification numbers and their deposit amounts, and the total amount of all qualified deposits.

In addition, state law requires a CDFI to apply to COIN for certification of its status and, on behalf of the taxpayer, for certification of the credit amount allocated to the taxpayer. The CDFI is also required to do the following:

- transmit to the taxpayer and COIN certification that the qualified deposit was accepted, the amount of the deposit, and the amount of the credit allocated to the depositor;
- obtain taxpayer information and provide it to COIN; and
- provide annually to both FTB and COIN a list of those taxpayers that make any early withdrawals or reductions of the qualified deposits.

PROGRAM BACKGROUND

CDFIs have emerged over the last 20 years to provide opportunities for neglected and underdeveloped communities, businesses, and individuals that lack access to traditional sources of financing. There are more than 310 CDFIs in urban, reservation-based, and rural settings in the country. Together, these CDFIs manage $1 billion to provide financing, investments, and extensive development services. CDFIs lend to borrowers that do not satisfy the criteria for conventional lenders.

CDFIs may be banks, credit unions, or non-regulated non-profit institutions organized to gather private capital for community development lending or investing. Some CDFIs focus on a particular community while others lend to certain groups of people (minorities, women, low-income families, social service providers). All CDFIs are financial intermediaries that have a common mission of community development.

In 1994, the President signed the federal Community Development Banking and Financial Institutions Act. This Act created a fund to promote economic revitalization and community development by investing in and assisting CDFIs.

THIS BILL

This bill would extend the repeal date of the CDFI credit from December 31, 2007, to December 31, 2017.

This bill would increase the limits of the aggregate amount of qualified deposits made by all taxpayers from $10 million to $25 million for each calendar year.

This bill would set a limit on the amount of total qualified investment certified in any calendar year from any one CDFI to the lesser of either $10 million, 40 percent of the authorized annual aggregate qualified investments, or an amount determined by the Insurance Commissioner.

This bill would give the CDFI full use and control of the proceeds and earnings of the investment during the 60-month period.

This bill requires COIN, or its successor, to accept and evaluate applications for the tax credit amount allocated to the taxpayer.

This bill made other minor technical changes.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department's programs and operations.

TECHNICAL CONSIDERATION

To avoid confusion, "of subdivision (c)" should be added after "paragraph (3)" on the following pages and lines:

- Page 3, lines 32 and 36
- Page 4, line 2
- Page 13, lines 16, 20, and 25

LEGISLATIVE HISTORY

AB 2570 (Arambula, 2005/2006) would extend the repeal date of the CDFI credit from December 1, 2007, to January 1, 2011. AB 2570 is currently at the Assembly Desk.

SB 409 (Vincent, Stats. 2001, Ch. 535), among other provisions, extended the sunset date of the CDFI credit from January 1, 2002, to January 1, 2007.

AB 1520 (Vincent, Stats. 1997, Ch. 947) created the CDFI credit.

OTHER STATES' INFORMATION

The laws of *Florida, Illinois, Massachusetts, Michigan, Minnesota, New York*, and *Texas* were reviewed because their tax laws are similar to California's income tax laws. Except for *New York*, none of these states have a credit similar to the financial institution investment credit.

New York: Allows a credit against the insurance franchise tax for investing in certified capital companies. A "certified capital company" is a partnership, corporation, trust, or limited liability company, organized on a for-profit basis, that is located, headquartered, and licensed or registered to do business in New York, and that has as its primary business activity the investment of cash in qualified businesses. Similar to California, *New York* provides this credit to encourage investment in the state. The maximum aggregate amount of certified capital for which the credit may be allowed is $80 million for 2001, and $150 million for 2002. The credit is for 100 percent of the investment but may only be taken in 10 percent increments each year for 10 years.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

<u>Revenue Estimate</u>

Based on data and assumptions discussed below, the Personal Income Tax (PIT) and Corporation Tax revenue loss from this bill would be as follows:

Estimated Revenue Impact of AB 2570 Effective On Or After January 1, 2006 Enactment Assumed After June 30, 2006			
	2005-06	2006-07	2007-08
Community Investment	-$500,000	-$500,000	-$500,000

This estimate does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

<u>Revenue Discussion</u>

The revenue impact of this bill would be determined by the amount of qualified investments in CDFI located within California.

Maximum qualified investments in any calendar year will be limited to the aggregate of $25 million. Since 1999, credit usage has varied dramatically, from $21,000 to $1.4 million over the five years of actual data available. Over five years, usage has averaged around $500,000 in PIT and Corporation tax combined. Even with an assumed growth rate of 3% annually, losses in the future years will still be around $500,000 annually. By 2014, revenue losses will exceed $600,000.

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