Franchise Tax Board

ANALYSIS OF AMENDED BILL

Author:	Perez John A., et al.	Analyst:	Brian Werking	Bill Number:	AB 624
Related Bills:	See Legislative History	Telephone:	845-5103	Introduced Date: Amended Date:	February 16, 2011 March 31, 2011
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Community Development Financial Institutions Investments Credit/Extend Repeal Date To January 1, 2017

SUMMARY

This bill would extend the repeal date of the Community Development Financial Institution Investments Credit.

This analysis only addresses provisions of the bill that impact the Franchise Tax Board (FTB).

SUMMARY OF AMENDMENTS

The March 31, 2011, amendments added co-authors and made technical, non-substantive changes to the bill.

This is the department's first analysis of this bill.

RECOMMENDATION AND SUPPORTING ARGUMENTS

No position.

PURPOSE OF THE BILL

According to the author, the purpose of the bill is to continue to help address unmet capital needs that support investments in economic development and affordable housing in low-income urban and rural communities throughout California.

EFFECTIVE/OPERATIVE DATE

This bill would be effective and operative January 1, 2012.

ANALYSIS

FEDERAL/STATE LAW

Existing federal law allows a New Markets Tax Credit (NMTC) for taxpayers who make a qualified equity investment in a community development entity (CDE).

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The NMTC is taken over a seven year period for a total of 39 percent of the value of the qualified investment—five percent for the first three years and 6 percent for years four through seven that the qualified investment is held by the CDE. The federal limit on the total qualified investments from all taxpayers to CDEs for 2010 is $3.5 billion.

Existing state law has not conformed to the federal credit for contributions to CDEs; however, current state law allows a credit equal to 20 percent of each qualified investment made by any taxpayer into a community development financial institution (CDFI). A qualified investment is defined as a deposit 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 within 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 annual certification of total qualified investments made by all taxpayers to all CDFIs at $10 million for each calendar year. However, if the aggregate amount of qualified investments made in any calendar year is less than $10 million, the difference may be carried over to the next year, and any succeeding calendar year, up through and including 2012.

Each year, until July 1, 25 percent of the annual aggregate amount of qualified investment, or an amount or date determined by the Insurance Commissioner, is reserved for investments by admitted insurers.

Each year, until July 1, $3 million of the annual aggregate amount of qualified investment, or an amount or date determined by the Insurance Commissioner, is reserved for investments of $300,000 or less from individual investors.

The credit applies for taxable years beginning on or after January 1, 1997, and before January 1, 2012.

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

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

- Transmit to the taxpayer and the COIN that a qualified investment was accepted;
- Transmit the amount of the investment and the amount of the credit allocated to the investor;
- Obtain taxpayer information and provide it to the COIN; and
- Provide annually to the FTB and the COIN a list of those taxpayers who make any early withdrawals or reductions of the qualified investments.

THIS BILL

This bill would extend the operative period of the CDFI credit to taxable years beginning on or after January 1, 2012, and before January 1, 2017, and revise the repeal date from December 1, 2012, to December 1, 2017.

IMPLEMENTATION CONSIDERATIONS

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

LEGISLATIVE HISTORY

AB 2831 (Ridley-Thomas, Stats. 2006, Ch. 580) extended the repeal date of the CDFI credit from January 1, 2007, to January 1, 2012.

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

AB 1520 (Vincent, Stats. 1997, Ch. 947) established the CDFI credit with a sunset date of January 1, 2002.

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. 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.

The department annually releases a report on state tax expenditures. The 2010 State Tax Expenditure Report contains information regarding the usage of the CDFI credit[1].

OTHER STATES' INFORMATION

The laws of *Florida, Illinois, Massachusetts, Michigan, Minnesota,* and *New York* were reviewed because their tax laws are similar to California's income tax laws.

[1] http://www.ftb.ca.gov/aboutftb/Tax_Expenditure_Report_2010.pdf, pg 57.

Illinois allows an income tax credit for investing capital in CDEs. Similar to California, *Illinois* provides this credit to encourage investment in low-income areas within the state. The credit is equal to 39 percent of the initial qualified invest and the credit is taken over a seven-year period, for which the initial investment remains with the CDE—zero percent for years one and two, seven percent for year three, and eight percent for years four through seven, with an annual cap of $20 million (prior to July 1, 2010, annual cap was $10 million).

New York allows a credit against the insurance franchise tax for investing in certified capital companies. Similar to California, *New York* provides this credit to encourage investment in the state. The maximum aggregate amount of credit available for taxable years 2007 and forward is $60 million. The credit is equal to 100 percent of the initial qualified investment, but may only be taken in 10 percent increments beginning with third year for which the initial investment remains with the certified capital company.

Review of *Florida, Massachusetts, Michigan, and Minnesota* laws found no comparable tax credits.

FISCAL IMPACT

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

ECONOMIC IMPACT

<u>Revenue Estimate</u>

This bill would result in the following revenue losses:

Estimated Revenue Impact of AB 624 For Taxable Years Beginning On or After January 1, 2012 Enactment Assumed After June 30, 2011			
2011-12	2012-13	2013-14	2014-15
-$200,000	-$420,000	-$450,000	-$450,000

This estimate does not include credits taken against insurance tax. This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

SUPPORT/OPPOSITION

Support: The California Department of Insurance, the Congress of California Seniors, the Association of Financial Development Corporations, and the Personal Insurance Federation of California.

Opposition: None provided.

ARGUMENTS

Pro: It could be argued that during these difficult economic times, with many public assistance programs being cut, it is important to encourage private development in underserved communities.

Con: Some taxpayers may say that with the state's current fiscal crisis, additional tax expenditures should be avoided.

LEGISLATIVE STAFF CONTACT

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