BILL ANALYSIS

Department, Board, Or Commission	Author	Bill Number
Franchise Tax Board	John A. Pérez	**AB 32**

SUBJECT

Community Development Financial Institution (Financial Institution) Investment Tax Credit

SUMMARY

This bill would increase from $10 million to $50 million per year, the aggregate amount of qualified investments eligible for the Financial Institution investment tax credit.

This analysis only addresses the provisions of the bill that impact the department's programs and operations.

REASON FOR THE BILL

The reason for this bill is to encourage investors to provide additional financial products and services to people and communities underserved by traditional financial markets.

EFFECTIVE/OPERATIVE DATE

This bill would be effective immediately upon enactment and operative as of that date.

ANALYSIS

FEDERAL/STATE LAW

Existing federal law allows a New Markets Tax Credit (Federal Credit) for taxpayers who make an equity investment in specialized financial institutions referred to as a community development entity (Development Entity).

The Federal Credit totals 39 percent of the original investment amount and is claimed over a period of seven years (5 percent for each of the first three years and 6 percent for each of the remaining four years). The investment in the Development Entity may not be redeemed before the end of the seven-year period. The federal limit on the total qualified investments from all taxpayers to Development Entities for 2013 is $3.5 billion.

State law does not conform to the Federal Credit for contributions to the Development Entities, but instead, allows a credit equal to 20 percent of the amount of each qualified investment in a Financial Institution made by a taxpayer during the taxable year. 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 invested for a minimum duration of 60 months.

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A Financial Institution is defined as a private financial institution located within California and certified by the California Organized Investment Network (Investment Network) that has community development as its primary mission and lends in urban, rural, or reservation-based communities in California. A Financial Institution 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 to Financial Institutions to $10 million for each calendar year. If the aggregate amount of qualified investments authorized in any calendar year is less than $10 million, the excess of $10 million over the actual aggregate qualified investment made in any year may be carried forward to the next year, and any succeeding calendar year up through and including 2017.

The following annual aggregate amounts of qualified investment are reserved by the Insurance Commissioner each year, until July 1:

- 25 percent is reserved for investments by admitted insurers.
- $3 million is reserved for investments of $300,000 or less from individual investors.

The Insurance Commissioner may determine an alternative amount or date as provided under the Insurance Code regulations.

The credit applies for taxable years beginning on or after January 1, 1997, and before January 1, 2017. A four-year carryover is available for credits in excess of the tax liability.

State law requires the Investment Network, or its successor, to certify and issue certificates for each Financial Institution, qualified investments, and for the total amount of credit allocated. The Investment Network is also required to provide the Franchise Tax Board (FTB) with an annual list of taxpayers, their identification numbers, the amount of their investments, and a cumulative amount of total qualified investments.

The Financial Institution, under state law, is required to apply to the Investment Network for certification of its status and, on behalf of the taxpayer, certification of the credit amount allocated to the taxpayer. The Financial Institution is also required to do the following:

- Transmit to the taxpayer and the Investment Network 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 Investment Network; and
- Provide annually to the FTB and the Investment Network a list of those taxpayers who make any early withdrawals or reductions of the qualified investments.

THIS BILL

This bill would increase the combined aggregate amount of qualified investments eligible for the Financial Institution investment tax credit under the Insurance Taxation Law, Personal Income Tax Law, and Corporation Tax Law from $10 million per year to $50 million per year.

Because the Financial Institution investment tax credit is equal to a specified percentage of the invested amount, this bill would, by increasing the annual aggregate amount of qualified investments eligible for the credit, increases the maximum Financial Institution investment tax credit available over the life of the credit.

The Financial Institution would be required to provide application information to the Investment Network with a description of the intended use of the investment funds, as specified, and detailed taxpayer information including name, postal and residential address, phone number, email address, and taxpayer identification numbers. The Investment Network would be limited to public disclosure of taxpayer application information to a taxpayer's name only.

LEGISLATIVE HISTORY

AB 624 (Pérez, Chapter 436, Statutes of 2011) extended the repeal date of the Financial Institution investment tax credit from January 1, 2012, to January 1, 2017.

AB 2831 (Ridley-Thomas, Chapter 580, Statutes of 2006) extended the repeal date of the Financial Institution investment tax credit from January 1, 2007, to January 1, 2012.

SB 409 (Vincent, Chapter 535, Statutes of 2001) extended the repeal date of the Financial Institution investment tax credit from January 1, 2002, to January 1, 2007.

AB 1520 (Vincent, Chapter 947, Statutes of 1997) established the Financial Institution investment tax credit with a sunset date of January 1, 2002.

PROGRAM BACKGROUND

Financial Institutions 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. The Financial Institutions lend to borrowers that do not satisfy the criteria for conventional lenders.

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

OTHER STATES' INFORMATION

The states reviewed include *Florida, Illinois, Massachusetts, Michigan, Minnesota,* and *New York.* These states were selected due to their similarities to California's economy, business entity types, and tax laws.

Florida allows a new markets tax credit against the corporate income tax and insurance taxes. A person or entity that makes a qualified investment earns a vested tax credit equal to 39 percent of the purchase price of the qualified investment. For the first and second years, the credit amount is zero. For the third year the credit is equal to 7 percent of the purchase price and for the fourth through seventh, the credit is equal to 8 percent. Any credit not fully used due to insufficient tax liability may be carried forward five years. The program encourages capital investment in low-income communities by allowing taxpayers to earn credits by investing in qualified Development Entities. In April 2012, the aggregate amount of credits available under the program increased to $163.8 million, subject to an annual cap of $33.6 million.

Illinois allows an income tax credit for investing capital in Development Entities. 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 investment and the credit is taken over a seven-year period, for which the initial investment remains with the Development Entity - zero percent for years one and two, 7 percent for year three, and 8 percent for years four through seven, with an annual cap of $20 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 calendar years 2007 and forward is $60 million. The credit is equal to 100 percent of the initial qualified investment, taken in 10 percent increments beginning with the third year for which the initial investment remains with the certified capital company.

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

FISCAL IMPACT

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

ECONOMIC IMPACT

Revenue Estimate

Estimated Revenue Impact of AB 32 Enactment Assumed After June 30, 2013		
2013-14	2014-15	2015-16
- $1,200,000	- $1,200,000	- $1,500,000

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

APPOINTMENTS

None.

SUPPORT/OPPOSITION[1]

Support:

Department of Insurance
3CORE Financial Mentoring Perspective
AFSCME
Association of California Insurance Companies
Association of California Life and Health Insurance Companies
California United Bank
Century Housing Corporation
Corporation for Supportive Housing
Enterprise Community Investments, Inc.
Farmers Insurance Group
Grossman Financial Management
InSight at Pacific Community Ventures
Karuk Community Loan Fund, Inc.
Los Angeles LDC
Nehemiah Community Reinvestment Fund
Northeast Community Federal Credit Union
Northern California Community Loan Fund
Opportunity Fund Northern California
Pacific Coast Regional Small Business Development Corporation
Pacific Life Insurance Company
Personal Insurance Federation of California
Rural Community Assistance Corporation
The Association of Financial Development Corporation

[1] As provided in the Senate Floor Analyses, September 3, 2013 <http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab_0001-0050/ab_32_cfa_20130903_202005_sen_floor.html>

Opposition:

Department of Finance

VOTES

Assembly Floor	05/28/13	Y: 77	N: 1
Senate Floor	09/09/13	Y: 39	N: 0

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