

REPORT OF THE SALES & USE TAX AND INCOME TAX SUBCOMMITTEE

(Clemmons, Hosey, Stavrinakis, Whitmire & Moss - Staff Contact: Michael Jackson)

HOUSE BILL 4133

H. 4133 -- Reprs. Weeks, G.M. Smith, Clyburn, Stavrinakis, Gilliard, Bales, Hosey, Cobb-Hunter, Henderson-Myers, R. Williams, Rutherford, Alexander and Forrest: A BILL TO AMEND SECTION 12-6-3530, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO COMMUNITY DEVELOPMENT TAX CREDITS, SO AS TO ALLOW A TAX CREDIT OF FIFTY PERCENT OF ANY CASH DONATION TO A COMMUNITY DEVELOPMENT CORPORATION OR COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS, TO DELETE AN AGGREGATE CREDIT PROVISION AND SET AN ANNUAL LIMIT, TO ESTABLISH TAX CREDIT RESERVE ACCOUNTS FOR THE FIRST THREE QUARTERS OF EACH TAX YEAR SO AS TO AVOID THE DEPLETION OF CREDITS BY AN INDIVIDUAL TAXPAYER, TO DELETE THE PRO-RATA DISTRIBUTION OF TAX CREDITS, TO ALLOW FINANCIAL INSTITUTIONS WITH TAX LIABILITIES IN THIS STATE TO INVEST IN COMMUNITY DEVELOPMENT CORPORATIONS FOR THE PURPOSE OF RECEIVING A TAX CREDIT, AND TO PROVIDE THAT RETURNS ON INVESTMENTS IN CERTIFIED COMMUNITY DEVELOPMENT CORPORATIONS AND CERTIFIED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS MAY NOT EXCEED THE TOTAL AMOUNT OF THE INITIAL INVESTMENT; AND TO AMEND SECTION 4 OF ACT 314 OF 2000, AS AMENDED, RELATING TO COMMUNITY DEVELOPMENT CORPORATIONS AND FINANCIAL INSTITUTIONS, SO AS TO EXTEND THE PROVISIONS OF THE SOUTH CAROLINA COMMUNITY ECONOMIC DEVELOPMENT ACT UNTIL JUNE 30, 2023.

Received by Ways and Means: February 27, 2019

Summary of Bill: Provides a tax credit of fifty percent for any cash donation that a taxpayer donates to a certified community development corporation or community development financial institution.

Total credits for all taxpayers may not exceed the aggregate amount in any calendar year based on the following schedule: \$1,000,000 for all taxpayers in the tax year 2019, \$2,000,000 for all taxpayers in the tax year 2020, and \$3,000,000 for all taxpayers in the tax years after 2020.

Unless reauthorizes by the General Assembly, the provisions of this act shall terminate on June 20, 2023.

Estimated Revenue Impact: This bill would reduce state General Fund individual and corporate income tax, bank tax, and insurance premium tax revenue (including retaliatory taxes), by an estimated amount of \$500,000 in (FY) 2019-20, \$1,500,000 in (FY)

"THE BELOW CONSTITUTED SUMMARY IS PREPARED BY THE STAFF OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES AND IS NOT THE EXPRESSION OF THE LEGISLATION'S SPONSOR(S) OR THE HOUSE OF REPRESENTATIVES. IT IS STRICTLY FOR THE INTERNAL USE AND BENEFIT OF MEMBERS OF THE HOUSE OF REPRESENTATIVES AND IS NOT TO BE CONSTRUED BY A COURT OF LAW AS AN EXPRESSION OF LEGISLATIVE INTENT".

2020-21 and \$3,000,000 in (FY) 2021-22 through (FY)
2023-24

Subcommittee Recommendation: Favorable

Full Committee Recommendation: Pending



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number:	H. 4133	Introduced on February 27, 2019
Author:	Weeks	
Subject:	Community Development Corporation and Financial Institutions	
Requestor:	House Ways and Means	
RFA Analyst(s):	R. Martin	
Impact Date:	March 13, 2019	

Fiscal Impact Summary

This bill would reduce state General Fund individual and corporate income tax, bank tax, and insurance premium tax revenue (including retaliatory taxes), by an additional estimated \$500,000 in FY2019-20, by an estimated \$1,500,000 in FY2020-21.

Furthermore, if the scheduled repeal date of the community development corporation and community development financial institutions tax credit is extended from June 30, 2020, to June 30, 2023, state General Fund individual and corporate income taxes, bank taxes, and insurance premium taxes (including retaliatory taxes), or any combination thereof will be reduced by an estimated \$3,000,000 in FY2021-22 through FY2023-24.

Explanation of Fiscal Impact

Introduced on February 27, 2019

State Expenditure

The Department of Commerce indicates that any additional workload related to the department's certification, authorization, and monitoring process for administering tax credits is not expected to require additional staffing or incur additional costs, and would have no expenditure impact on the General Fund, Federal Funds, or Other Funds.

State Revenue

Section 1. A community development corporation is a nonprofit corporation which is tax exempt and has a primary mission of developing and improving low-income communities and neighborhoods through economic and related development. A community development financial institution is an organization that has a primary mission of promoting community development by providing credit, capital, or development services to small businesses or home mortgage assistance to individuals. Currently, pursuant to Section 12-6-3530, a taxpayer is allowed a nonrefundable tax credit against South Carolina income tax, bank tax, or insurance premium tax equal to thirty-three percent of the investment in a community development corporation or community development financial institution. The total credit that may be claimed by all taxpayers is \$1,000,000 in one calendar year and \$5,000,000 for all calendar years. Any unused credit may be carried forward and must be used before the taxable year that begins on or after ten years from the date of the acquisition of stock or other equity interest that is the basis for the credit.

The table below describes the number of taxpayers and the amount of tax credits claimed against investments in community development corporations and community development financial institutions from tax year 2002 to tax year 2015, the latest year data is available. Over this period, 612 taxpayers have claimed \$2,390,122 in nonrefundable tax credits.

History of CDC / CDFI Tax Credits Claimed

Tax Year	No. of Taxpayers Filing Credits	Amount of Tax Credits
2002	12	\$2,957
2003	9	\$2,050
2004	12	\$22,539
2005	14	\$5,234
2006	16	\$14,001
2007	33	\$31,927
2008	41	\$113,354
2009	28	\$25,877
2010	32	\$275,545
2011	36	\$378,668
2012	38	\$173,263
2013	88	\$502,334
2014	112	\$287,865
2015	141	\$554,508
2016	N/A	N/A
Total	612	\$2,390,122

Note: N/A - Not Available.

Sources: Board of Economic Advisors; S.C. Department of Revenue

This bill makes several changes to the current statute and may be summarized as follows:

- A taxpayer may claim a tax credit equal to thirty-three percent of equity investments and may claim a tax credit equal to fifty percent of cash donations in a certified community development corporation or in a community development financial institution
- Total credits for all taxpayers may not exceed the aggregate amount in any calendar year based on the following schedule:
 - \$1,000,000 for all taxpayers in tax year 2019;
 - \$2,000,000 for all taxpayers in tax year 2020;
 - \$3,000,000 for all taxpayers in tax years after 2020.
- The Department of Commerce must not authorize any tax credits after the annual aggregate limitation has been met as listed above

- The Department of Commerce shall authorize the tax credits each year on a first-come first-served basis
- Twenty-five percent of annual tax credits must be held in a reserve account during the first three quarters of each tax year and made available exclusively to small, rural based community development corporations. During the first three quarters of any tax year, an individual community development corporation or a community development financial institution must not be authorized to receive more than fifteen percent of the statewide total annual credits. During the fourth quarter of each tax year, all remaining tax credits are available to all certified community development corporations or community development financial institutions.

As shown in the table above, the \$1,000,000 annual limitation has never been achieved in any tax year during the existence of the community development tax credit program. This section would change the allocation method of how the Department of Commerce awards tax credits for investments in community development corporations and community development financial institutions. This section also distinguishes between investments as an equity investment versus a cash donation. This section would change the tax credit percentage from thirty-three percent of all amounts invested to all equity investments in a certified community development corporation or in a community development financial institution. The language also adds a tax credit equal to fifty percent for all cash donations in a certified community development corporation or in a community development financial institution.

Using the latest data from the table above, there were \$554,508 in tax credits claimed by investors in community development corporations and community development financial institutions in tax year 2015. The number of taxpayers claiming the tax credit, the total amount of tax credits claimed, and the average tax credit claimed by each taxpayer has steadily risen over the latest six tax years. Since more than one-third of all certified community development corporations and community development financial institutions are located in the Southeast, and market demand continues to be strong by serving areas where traditional financing is underrepresented, it is reasonable to expect that the amount of community development corporation and community development financial institution credits will continue to increase by FY2019-20. Future growth in the usage of the tax credits will depend on the availability of high-risk investment funds, the available housing stock, and the overall strength of the economy. Since the Southern region is one of the fastest growing housing regions in the United States, it would be reasonable to expect the maximum aggregate tax credit limit will be met each calendar year.

Using an average aggregate amount of tax credits claimed per tax year of \$500,000 in the absence of the proposed legislation, the difference in the maximum aggregate tax credits claimed in tax year 2019 (FY2019-20) of \$1,000,000 under the current proposal and \$500,000 under existing law would reduce General Fund income, bank, or insurance premium tax revenues by an additional estimated \$500,000 in FY2019-20. Using the same analysis, this would reduce General Fund income, bank, or insurance premium tax revenues by an additional estimated

\$1,500,000 in FY2020-21. The bill's revenue impact for FY2021-22 through FY2023-24 for the extension of the sunset date is discussed below.

Section 2. This section would add unnumbered sub-items to Section 12-6-3530 to insure that returns on investments in a certified community development corporation and a certified community development financial institution, including the value of any tax credits authorized pursuant to this section, may not exceed the total amount of the initial investment. This amount would be part of the aggregate annual limitation for all taxpayers in a calendar year.

Section 3. This section would extend the sunset date of this tax credit by an additional three years to June 30, 2023, unless the provisions are reauthorized by the General Assembly before June 30, 2020. After this date, all laws and regulations dealing with community development corporations and community development financial institutions would be repealed.

Since the community development corporation and community development financial institutions tax credit is scheduled to be repealed on June 30, 2020, the Board of Economic Advisors (BEA) is not expecting any further additional revenue reductions in the state General Fund revenue beginning in FY2020-21 from this tax credit. If the scheduled repeal date of the community development corporation and community development financial institutions tax credit is extended, by three years, from June 30, 2020, to June 30, 2023, state General Fund revenue will be affected. In this case, state General Fund individual and corporate income taxes, bank taxes, and insurance premium taxes (including retaliatory taxes), or any combination thereof will be reduced by an estimated \$3,000,000 in FY2021-22 through FY2023-24.

Section 4. This act takes effect January 1, 2019.

Local Expenditure

N/A

Local Revenue

N/A



Frank A. Rainwater, Executive Director

South Carolina General Assembly
123rd Session, 2019-2020

H. 4133

STATUS INFORMATION

General Bill

Sponsors: Reps. Weeks, G.M. Smith, Clyburn, Stavrinakis, Gilliard, Bales, Hosey, Cobb-Hunter, Henderson-Myers, R. Williams, Rutherford, Alexander and Forrest

Document Path: I:\council\bill\ncd\11245dg19.docx

Companion/Similar bill(s): 424

Introduced in the House on February 27, 2019

Currently residing in the House Committee on **Ways and Means**

Summary: Community Development Corporations and Financial Institutions

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
2/27/2019	House	Introduced and read first time (House Journal-page 65)
2/27/2019	House	Referred to Committee on Ways and Means (House Journal-page 65)

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VERSIONS OF THIS BILL

2/27/2019

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A BILL

11 TO AMEND SECTION 12-6-3530, CODE OF LAWS OF SOUTH
12 CAROLINA, 1976, RELATING TO COMMUNITY
13 DEVELOPMENT TAX CREDITS, SO AS TO ALLOW A TAX
14 CREDIT OF FIFTY PERCENT OF ANY CASH DONATION TO
15 A COMMUNITY DEVELOPMENT CORPORATION OR
16 COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS,
17 TO DELETE AN AGGREGATE CREDIT PROVISION AND SET
18 AN ANNUAL LIMIT, TO ESTABLISH TAX CREDIT RESERVE
19 ACCOUNTS FOR THE FIRST THREE QUARTERS OF EACH
20 TAX YEAR SO AS TO AVOID THE DEPLETION OF CREDITS
21 BY AN INDIVIDUAL TAXPAYER, TO DELETE THE
22 PRO-RATA DISTRIBUTION OF TAX CREDITS, TO ALLOW
23 FINANCIAL INSTITUTIONS WITH TAX LIABILITIES IN
24 THIS STATE TO INVEST IN COMMUNITY DEVELOPMENT
25 CORPORATIONS FOR THE PURPOSE OF RECEIVING A TAX
26 CREDIT, AND TO PROVIDE THAT RETURNS ON
27 INVESTMENTS IN CERTIFIED COMMUNITY
28 DEVELOPMENT CORPORATIONS AND CERTIFIED
29 COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS
30 MAY NOT EXCEED THE TOTAL AMOUNT OF THE INITIAL
31 INVESTMENT; AND TO AMEND SECTION 4 OF ACT 314 OF
32 2000, AS AMENDED, RELATING TO COMMUNITY
33 DEVELOPMENT CORPORATIONS AND FINANCIAL
34 INSTITUTIONS, SO AS TO EXTEND THE PROVISIONS OF
35 THE SOUTH CAROLINA COMMUNITY ECONOMIC
36 DEVELOPMENT ACT UNTIL JUNE 30, 2023.

37
38 Be it enacted by the General Assembly of the State of South
39 Carolina:

40
41 SECTION 1. Section 12-6-3530(A), (B), (C), (D), (E), (F), and (L)
42 of the 1976 Code is amended to read:

1
2 “(A) A taxpayer may claim as a credit against his state income
3 tax, bank tax, or premium tax liability thirty-three percent of all
4 ~~amounts invested equity investments~~ in a certified community
5 development corporation or in a community development financial
6 institution, as defined in Section 34-43-20(2) or (3). A taxpayer that
7 makes a cash donation to a certified community development
8 corporation or community development financial institution may
9 claim a credit equal to fifty percent of the donation.

10 To qualify for this credit the taxpayer must obtain a certificate
11 from the South Carolina Department of Commerce certifying that
12 the entity into which the funds are invested is a community
13 development corporation or a community development financial
14 institution within the meaning of Section 34-43-20(2) or (3) and
15 certifying that the credit taken or available to that taxpayer will not
16 exceed the annual aggregate ~~five million dollar~~ limitation of ~~all~~
17 ~~these credits as provided in subsection (B) when added to the credits~~
18 ~~previously taken or available to other taxpayers making similar~~
19 ~~investments.~~ A taxpayer who invested in good faith in a certified
20 corporation or institution may claim the credit provided in this
21 section, notwithstanding the fact that the certification is later
22 revoked or not renewed by the department.

23 (B) The total amount of credits allowed pursuant to this section
24 may not exceed in the aggregate ~~five million dollars for all taxpayers~~
25 ~~and all calendar years and one million dollars for all taxpayers in~~
26 ~~one calendar year.:~~

- 27 (1) one million dollars for all taxpayers in tax year 2019;
- 28 (2) two million dollars for all taxpayers in tax year 2020; and
- 29 (3) three million dollars for all taxpayers in all tax years after
30 2020.

31 (C) The Department of Commerce shall authorize the tax credits
32 each year on a first-come, first-served basis. A single community
33 development corporation or community development financial
34 institution may not receive more than twenty-five percent of the
35 total annual tax credits authorized pursuant to this section ~~in any one~~
36 ~~calendar year.~~ Twenty-five percent of annual tax credits must be
37 held in a reserve account during the first three quarters of each tax
38 year and made available exclusively to small, rural-based,
39 community development corporations. During the first three
40 quarters of any tax year, an individual community development
41 corporation or a community development financial institution must
42 not be authorized to receive more than fifteen percent of the
43 statewide total annual credits. During the fourth quarter of each tax

1 year, all remaining tax credits are available to all certified
2 community development corporations or community development
3 financial institutions.

4 (D) The department shall monitor the investments made by
5 taxpayers in community development corporations and community
6 development financial institutions as permitted by this section and
7 shall perform the functions as provided in subsection subsections
8 (A) and (C) above.

9 (E) If the amount of the credit determined, pursuant to
10 subsection (A), exceeds the taxpayer's state tax liability for the
11 applicable taxable year, the taxpayer may carry over the excess to
12 the immediately succeeding taxable years. However, the credit
13 carry-over may not be used for a taxable year that begins on or after
14 ~~ten~~ three years from the date of the acquisition of stock or other
15 equity interest that is the basis for a credit pursuant to this section.
16 The amount of the credit carry-over from a taxable year must be
17 reduced to the extent that the carry-over is used by the taxpayer to
18 obtain a credit provided for in this section for a later taxable year.

19 ~~(F) Notwithstanding the provisions of subsections (A), (B), (C),~~
20 ~~(D), and (E) above, if on April 1, 2001, or as soon after that as the~~
21 ~~department is able to determine, the total amount of tax credits~~
22 ~~which may be claimed by all taxpayers exceeds the total amount of~~
23 ~~tax credits authorized by this section, the credits must be determined~~
24 ~~on a pro rata basis. For purposes of this subsection, a community~~
25 ~~development corporation or community development financial~~
26 ~~institution for which an investment may be claimed as a tax credit~~
27 ~~pursuant to this section must report all investments made before~~
28 ~~April 1, 2001, to the department by April 1, 2001, which shall~~
29 ~~inform, as soon as reasonably possible, all community development~~
30 ~~corporations and community development financial institutions of~~
31 ~~the total of all investments in all institutions and corporations as of~~
32 ~~April 1, 2001. The department must not authorize any tax credits~~
33 ~~after the annual aggregate limitation set forth in subsection (B) has~~
34 ~~been reached.~~

35
36 (L) Banks and financial institutions ~~chartered by the~~ with tax
37 liabilities in this State of South Carolina may invest in community
38 development corporations and community development financial
39 institutions incorporated pursuant to the laws of this State, up to a
40 maximum of ten percent of a chartered bank or financial
41 institution's total capital and surplus.”

42

1 SECTION 2. Section 12-6-3530 of the 1976 Code is amended by
2 adding an appropriately lettered subsection at the end to read:

3

4 “() Returns on investments in certified community development
5 corporations and certified community development financial
6 institutions, including the value of any tax credits authorized
7 pursuant to this section, may not exceed the total amount of initial
8 investment in certified community development corporations and
9 community development financial institutions.”

10

11 SECTION 3. Section 4 of Act 314 of 2000, as last amended by Act
12 46 of 2015, is further amended to read:

13

14 “SECTION 4. Unless reauthorized by the General Assembly, the
15 provisions of this act shall terminate on June 30, ~~2020~~ 2023, and this
16 act and all other laws and regulations governing, authorizing, and
17 otherwise dealing with community development corporations and
18 community development financial institutions are deemed repealed
19 on that date.”

20

21 SECTION 4. This act takes effect January 1, 2019.

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