STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	**05/02/01**	Bill No:	**AB 738**
Tax:	**Tax on Insurers**	Author:	**Lowenthal**
Board Position:		Related Bills:	**AB 874 (Horton)** **SB 24 (Polanco)** **SB 73 (Dunn)** **SB 409 (Vincent)**

BILL SUMMARY

This bill would create an insurance tax credit for insurance companies that contribute to an eligible community development corporation.

ANALYSIS

Current Law

Section 12201 of the Revenue and Taxation Code imposes an annual tax on all insurers doing business in this State.

For insurers other than title insurers, the basis of the annual tax is gross premiums, less return premiums, received by the insurer on business done in this State. (R&TC § 12221.)

For insurers transacting title insurance, the basis of the annual tax is all income from business done in this State except interest and dividends, rents from real property, profits from the sale of investments, and income from investments. (R&TC § 12221.)

The rate of the annual tax is 2.35 percent, except for specified premiums that are taxed at 0.50 percent. (R&TC § 12202.) Under Section 12204 of the Revenue and Taxation Code, the tax imposed on insurers is in lieu of all other state, county, and municipal taxes and licenses, including income taxes, with specified exceptions.

Section 12206 of the Revenue and Taxation Code authorizes insurance companies that invest in California low-income housing projects to compete for a tax credit granted by the California Tax Credit Allocation Committee. Similar tax credits are also available under the Personal Income Tax Law and the Bank and Corporation Tax Law. The credit available under these three laws is limited to a combined total of $50 million per year.

Section 12208 of the Revenue and Taxation Code provides an insurance tax credit in an amount equal to the amount of the tax due from the insurer on account of pilot project insurance for previously uninsured motorists. Section 12209 of the Revenue and Taxation Code allows as a credit against the amount of insurance tax an amount equal to 20 percent of the amount of each qualified deposit made by an insurer during the year into a "community development financial institution" as defined.

Proposed Law

This bill would add and later repeal Section 12207 of the Revenue and Taxation Code to allow a credit against the tax in an amount equal to 50 percent of a contribution, certified by the California Tax Credit Allocation Committee, by an insurer to an eligible community development corporation. The eligible community development corporation shall use the contribution for either of the following:

1. The development, renovation, or expansion of a community facility, or
2. The operation of programs that primarily benefit low-income persons.

If the credit allowed by this section exceeds the amount of the annual tax, the excess may be carried over to reduce the annual tax for up to ten years.

Under subdivision (h), the California Tax Credit Allocation Committee would be required to (1) establish criteria for the allocation of tax credits to eligible community development corporations; (2) accept applications, identify taxpayers entitled to claim the credit, and allocate credits to eligible community development corporations; (3) issue credit certificates; and (4) obtain each taxpayer's identification numbers for tax administration purposes.

Under subdivision (k), the aggregate credit that could be certified in any year to one taxpayer could not exceed $500,000 (which represents a $1 million contribution).

The combined community investment tax credit under both the insurance tax law and income tax law (including Personal Income Tax Law and the Bank and Corporation Tax Law) would be limited by this bill to the amount appropriated to fund the credit by the annual Budget Act. While this section would sunset as of December 1, 2010, any credit allowed by this section which exceeds the amount of the insurer's annual tax could be carried over to reduce the insurer's annual tax for up to ten years after the year in which the credit is accrued.

Background

In 1998, Assembly Bill 168 (Torlakson, Ch. 9) increased the aggregate tax credit granted by the California Tax Credit Allocation Committee for qualifying low-income housing project investments from $35 million to $50 million for calendar years 1998 and 1999 only. Assembly Bill 1626 (Ch. 3, Stats. 2000, Torlakson) permanently increased the aggregate housing credit that may be allocated by the California Tax Credit Allocation Committee to $50 million annually.

During the 1999-2000 Legislative Session, three bills allowing credits against the amount of insurance tax were introduced. Assembly Bill 145 (Ch. 821, Stats. 1999, Vincent) added Section 12209 to the California Tax on Insurers Law to allow a credit against the amount of insurance tax in an amount equal to 20 percent of the amount of each qualified deposit made by a taxpayer during the year into a community development financial institution. Assembly Bill 145 simply allowed the credit available under the Personal Income Tax Law and the Bank and Corporation Tax Law to be available under the Tax on Insurers Law.

Assembly Bill 1432 (Ch. 808, Stats. 1999, Oller) added Section 12208 to the Revenue and Taxation Code to provide a gross premiums tax credit in an amount equal to the amount of the gross premiums tax due from an insurer on account of pilot project insurance for previously uninsured motorists.

Assembly Bill 1080 (Villaraigosa, et al), which is similar to this measure, would have added Section 12207 to the Revenue and Taxation Code to create a tax credit for insurance companies that contribute to an eligible community development corporation. AB 1080 was amended in the Senate Appropriations Committee to delete the insurance tax credit provisions.

Also during the 1999-2000 Legislative Session, two bills were introduced that would have allowed a 50 percent credit against the insurance tax. Senate Bill 1465 (Polanco) was held in the Senate Rules Committee and SB 1151 (Polanco) was held under submission in Assembly Revenue and Taxation Committee.

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by the Local Initiative Support Corporation and is intended to encourage contributions to eligible community development corporations in order to improve community facilities located in low-income areas and to support programs intended to benefit low-income persons.

2. **Summary of Amendments.** Amendments contained in this version of the bill 1) delete the $25,000 minimum annual contribution for which a tax credit could be certified, 2) give preference to an application that proposes to use at least 50 percent of the subject contribution to improve the energy efficiency of a community facility for the award of tax credit certificates, and 3) revise the amount of the aggregate community investment tax allocated annually from thirty million dollars ($30,000,000) to the amount appropriated to fund the credit by the annual Budget Act.

3. **The Board staff does not foresee any administrative problems with this measure.** The Board of Equalization, the State Controller, and the Department of Insurance share administrative responsibility for the insurance tax program. Section 28 of Article XIII of the California Constitution states that the Board shall assess taxes under the Insurance Tax Law. Upon recommendation from the Department of Insurance, the Board also issues deficiency assessments in cases of underpayment of the tax by an insurer. The Office of the Controller has the responsibility to collect the tax and issue refunds. Audit verification work is the responsibility of the Department of Insurance.

   As the law is currently administered, the Department of Insurance would be responsible for the verification of the tax credit. It is anticipated that this measure would have a minimal impact on the Board's current functions under the Insurance Tax Law.

3. **The annual listings should also be sent to the Department of Insurance.** This bill would require the California Tax Credit Allocation Committee to send to the Franchise Tax Board an annual listing containing names, taxpayer identification numbers, amount contributed, and total amount of credit certified to each taxpayer. Since the Department of Insurance has a major role in the verification of the tax credit, that agency should also receive a copy of these reports.

3. **Related legislation.** As of the date of this analysis, three other bills addressing insurance tax credits have been introduced: Assembly Bill 874 (Horton), Senate Bill 24 (Polanco), Senate Bill 73 (Dunn) and Senate Bill 409 (Vincent).

   Assembly Bill 874 would extend the operation of an insurance tax credit for insurance companies that invest in a community development financial institution that lends to urban, rural, or reservation-based communities in this state.

   Senate Bill 24 would create an insurance tax credit for insurance companies that invest in certified capital companies, which in turn would make investments in new businesses or expanding businesses.

   SB 73 would, for purposes of existing low-income housing tax credits, provide a $70 million maximum aggregate dollar amount for the 2001 calendar year and each calendar year, thereafter. In addition, this bill would provide for the 2002 calendar year and each calendar year thereafter an adjustment for inflation measured by an increase in the Consumer Price Index.

   Senate Bill 409 would extend from January 1, 2002 to January 1, 2007 the expiration date of the annual tax credit in an amount equal to 20 percent of a qualified deposit made into a community development financial institution.

COST ESTIMATE

The administrative costs associated with this bill would be absorbable. These costs would include informing, advising, and answering inquiries from the public, and training Board staff.

REVENUE ESTIMATE

This measure would authorize a tax credit in an amount equal to 50 percent of a contribution by a taxpayer to an eligible community development corporation as specified. This measure would limit the aggregate tax credit allocated annually to the amount appropriated to fund the credit by the annual Budget Act.

Analysis prepared by:	Cindy Wilson	445-6036	05/07/01
Contact:	Margaret S. Shedd	322-2376	

g:\legislative\0738-2cw

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.