STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date Introduced:	**02/23/06**	Bill No:	**AB 2570**
Tax:	**Tax on Insurers**	Author:	**Arambula**
Related Bills:	**AB 2831 (Ridley-Thomas)**		

BILL SUMMARY

Among other things, this bill would extend until January 1, 2011, the operation of the insurance tax credit for insurers that invest in a community development financial institution (CDFI) that lends to urban, rural, or reservation-based communities in this state, which is due to sunset on January 1, 2007.

ANALYSIS

Current Law

Section 12201 of the Revenue and Taxation Code (RTC) imposes an annual tax on all insurers doing business in this state. For insurers other than title insurers and ocean marine insurers, RTC section 12221 specifies that the basis of the annual tax is gross premiums, less return premiums, received by the insurer on business done in this state. For insurers transacting title insurance, RTC section 12231 specifies that 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. For insurers transacting ocean marine insurance, RTC section 12101 provides that the annual tax is measured by that portion of the underwriting profit of the insurer from the ocean marine insurance written in the United States, of which the gross premiums from ocean marine insurance written in this state bear to the gross premiums from ocean marine insurance written within the United States, at the rate of 5 percent.

RTC section 12202 sets the current rate of the annual tax at 2.35 percent, except for specified premiums that are taxed at 0.50 percent. Under RTC section 12204, the tax imposed on insurers is in lieu of all other state, county, and municipal taxes and licenses, including income taxes, with specified exceptions.

RTC section 12209 allows as a credit against the amount of insurance tax an amount equal to 20 percent of the amount of each qualified investment made by an insurer during the year into a CDFI that lends to urban, rural, or reservation-based communities in this state. A qualified investment is an investment in a CDFI that is: 1) a deposit or loan that does not earn interest; 2) an equity investment; or 3) an equity-like debt instrument that conforms to the specifications for these instruments as prescribed by the U.S. Department of the Treasury CDFI Fund, or its successor. All qualified investments must be equal to or greater than $50,000 and for a minimum of sixty (60) months to qualify for a 20 percent tax credit during the year in which the investment was made. Similar tax credits are also available under the Personal Income and Bank and Corporation Tax Law. The combined amount of qualified investments available under these three laws is limited to a total amount of $10 million per year for a total annual tax credit limit of $2 million per year ($10 million X 20%). RTC section 12209 will remain in effect only until December 31, 2007, and as of that date is repealed.

RTC section 12208 also provides for a gross premiums tax credit in an amount equal to the amount of the gross premiums tax due from the insurer on account of the pilot project insurance for previously uninsured motorists. In addition, RTC section 12206 authorizes insurers that invest in low-income housing to compete for a gross premiums tax credit granted by the California Tax Credit Allocation Committee. Similar low-income housing tax credits are also available under the Personal Income Tax Law and the Bank and Corporation Tax Law. The tax credit available under these three laws is limited to a combined total of $70 million per year, adjusted for inflation increases, if any, based on the federal Consumer Price Index (CPI).

Proposed Law

This bill would amend Section 12209 of the RTC to extend until January 1, 2011, the operation of the insurance tax credit for insurers that invest in a CDFI that lends to urban, rural, or reservation-based communities in this state.

Additionally, this bill would add Article 8 (commencing with Section 13900) to Chapter 2 of Division 3 of the Insurance Code to establish the California Rural Community Development Financial Institutions Act. This bill would require the Department of Insurance (DOI) to establish an outreach program to rural and underserved areas in this state, as defined, for the purposes of certifying CDFIs that are eligible to participate in the CDFI tax credit program pursuant to RTC sections 12209, 17053.57, and 23657. This bill would also require the DOI to report to the Legislature, by July 1, 2007, a description of the outreach program, including 1) the outreach strategy, 2) the outreach implementation plan, and 3) the stakeholders participating in the implementation of the plan.

Background

The current insurance tax credit for insurers that invest in a CDFI that lends to urban, rural, or reservation-based communities in this state was extended in 2001 by Senate Bill (SB) 409 (Ch. 535, Vincent) until January 1, 2007. SB 409 also expanded and clarified the definition of qualified investments, and provided for a carry-over of any unused tax credits to future years.

The most recent bills to provide or extend insurance tax credits were from the 2001-2002 Legislative Session:

- Assembly Bill (AB) 738 (Lowenthal) would have created an insurance tax credit for insurers that contribute to an eligible community development corporation. This bill was intended to encourage investments in community facilities located in low-income areas and in programs intended to benefit low-income persons. AB 738 was held under submission in the Assembly Appropriations Committee.
- AB 874 (J. Horton) would have extended the operation of the insurance tax credit for insurers that invest in a CDFI that lends to urban, rural, or reservation-based communities in this state until January 1, 2005. AB 874 was placed on the suspense file in the Senate Appropriations Committee.

- SB 24 (Polanco) would have created an insurance tax credit for insurers that invest in certified capital companies, which in turn would make investments in new businesses or expanding businesses. SB 24 was amended in the Senate Revenue and Taxation Committee to delete the insurance tax credit provisions.
- SB 73 (Ch. 668, Stats. 2001, Dunn, et al), for purposes of existing low-income housing tax credits, increased the maximum aggregate annual credit amount from $50 million to $70 million starting in 2001, and for each calendar year thereafter. In addition, this bill also provided that, for the 2002 calendar year, and each calendar year thereafter, the aggregate annual credit amount of $70 million would be adjusted for inflation increases, if any, using the federal CPI.

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by the author and is intended to: 1) extend the current credit for investments in CDFIs; and 2) ensure that the benefits and opportunities of the California CDFI tax certification program are provided to rural and underserved areas in this state.
2. **Technical amendment.** It appears that subdivision (a) of RTC section 12209 was not amended to change the taxable years for which the tax credit applies. Subdivision (a) of section 12209 provides that the tax credit applies for taxable years beginning on or after January 1, 1999, and before January 1, 2007. The proposed sunset date in the bill is January 1, 2011. If the author's intent is to extend the operation of the credits for the taxable years 2007 through 2010, then subdivision (a) of Section 12209 should be amended to provide that the credit would apply for each taxable year beginning on or after January 1, 1999, and before January 1, *2011*.
3. **The Board staff does not foresee any administrative problems with this bill.** The Board of Equalization, the State Controller, and the DOI 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 DOI, 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 DOI.

   As the law is currently administered, the DOI would be responsible for the verification of the tax credit. It is anticipated that the extension of the tax credit as proposed by this bill would have a minimal impact on the Board's current functions under the Insurance Tax Law.
4. **Related legislation.** AB 2831 (Ridley-Thomas), which is similar to this bill, would extend this current insurance tax credit until January 1, 2017, instead of January 1, 2011.

COST ESTIMATE

The Board's administrative costs related to this bill would be insignificant (i.e., under $10,000).

REVENUE ESTIMATE

This bill would extend until January 1, 2011, the operation of the insurance tax credit for insurers that invest in a CDFI that lends to urban, rural, or reservation-based communities in this state. This bill would maintain the current $2 million annual limit for the allocated tax credit. Accordingly, this bill could potentially decrease the General Fund by $8 million from calendar years 2007 to 2010, inclusive.

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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.