Bill Number:	H. 4133 Signed by Governor on May 16, 2019
Author:	Weeks
Subject:	Community Development Corporation and Financial Institutions
Requestor:	House of Representatives
RFA Analyst(s):	R. Martin
Impact Date:	June 18, 2019

Fiscal Impact Summary

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

Furthermore, since the scheduled repeal date of the community development corporation and community development financial institutions tax credit was 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 $1,500,000 in FY2021-22 through FY2023-24.

This bill also reduces General Fund income tax revenue by up to $2,500,000 beginning in FY2019-20 as a result of the 25 percent tax credit for installation of non-residential solar energy equipment. Since the tax credits must be taken in five installments and unused credits may be carried forward, we expect General Fund income tax revenue will be reduced by up to $2,500,000 through FY2025-26, when any carryforward credit will expire.

Explanation of Fiscal Impact

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State Expenditure
Department of Commerce. 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.

Department of Revenue. The Department of Revenue indicates that any expenses for the modification of tax forms to be handled within the Department of Revenue's annual updates to tax forms can be administered with existing resources 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. Previously, pursuant to Section 12-6-3530, a taxpayer was 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 could have been claimed by all taxpayers was $1,000,000 in one calendar year and $5,000,000 for all calendar years. Any unused credit could have been carried forward and 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 was 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 2016, the latest year data is available. Over this period, 742 taxpayers have claimed $3,767,458 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	130	$1,377,336
Total	742	$3,767,458

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

- The aggregate limit for all taxpayers in all tax years is increased by $1,000,000. This additional $1,000,000 may only be used for credits earned and certificates issued for all taxpayers beginning after 2018

- 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 only recently been achieved over the lifetime of the community development tax credit program. This section changes 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 changes 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 $1,377,336 in tax credits claimed by investors in community development corporations and community development financial institutions in tax year 2016. 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 seven 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.

Previously, the total amount of credits that could have been claimed by all taxpayers was $1,000,000 in one calendar year and $5,000,000 for all calendar years. This bill increased the aggregate limit for all taxpayers in all tax years by $1,000,000. Now, the total amount of credits that may be claimed by all taxpayers is $2,000,000 in one calendar year and $6,000,000 for all calendar years. The additional $1,000,000 may only be used for credits earned and certificates issued for all taxpayers beginning after 2018.

Using an average aggregate amount of tax credits claimed per tax year of $500,000 in the absence of this legislation, the difference in the maximum aggregate tax credits claimed in tax year 2019 (FY2019-20) of $2,000,000 under this legislation and $500,000 under the prior law reduces General Fund income, bank, or insurance premium tax revenues by an additional estimated $1,500,000 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 adds 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 extends 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 was 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. Since the repeal date of the community development corporation and community development financial institutions tax credit was extended by three years, from June 30, 2020, to June 30, 2023, state General Fund revenue is 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 section adds Section 12-6-3775, which allows a solar energy property tax credit similar to the credit in Section 12-6-3770 that was repealed December 31, 2017. The bill allows a taxpayer who constructs, purchases, or leases solar energy property to claim an income tax credit equal to 25 percent of the cost, including the cost of installation of the property. The credit is limited to property that is located on the Environmental Protection Agency's (EPA) Priority List, National Priority List of Equivalent Sites, a list of related removal actions, as certified by the Department of Health and Environmental Control (DHEC), land that is subject to a Voluntary Cleanup Contract with DHEC as of December 31, 2017, land that is subject to corrective action under the Federal Resource Conservation and Recovery Act of 1976, or land that is owned by the Pinewood Custodial Trust.

The credit is earned in the year in which the solar energy property is placed in service, but must be taken in five equal annual installments. Unused credits may be carried forward for five taxable years. A credit for each installation of solar energy property placed in service may not exceed $2,500,000. The credit is allowed on a first-come, first-served basis, and the total amount of credits may not exceed $2,500,000 for all taxpayers in a taxable year. A taxpayer who claims any other state credit allowed with respect to solar energy property may not take the credit allowed in this section with respect to the same property. The type of equipment is limited to non-residential solar energy equipment with a nameplate capacity of at least 1,900 kw AC that uses solar radiation as a substitute for traditional energy water heating, active space heating and cooling, passive heating, daylighting, generating electricity, distillation, desalination, detoxification, or the production of industrial or commercial process heat. Also included are devices necessary for collecting, storing, exchanging, conditioning, or converting solar energy to other useful forms of energy. This bill takes effect in income tax years beginning after 2018. The provisions of the bill are repealed on December 31, 2021. However, if a credit is earned before the repeal, the provisions of the bill continue to apply until the credits have been fully claimed.

In 2016, there was significant interest in building a solar energy site at the former Arkwight Dump in Spartanburg County. Two companies submitted bids, however the city council voted against the measure in 2018. The Department of Revenue reports that no companies claimed the credit in 2016 or 2017.

However, we expect other projects qualifying for the tax credit may be implemented. According to DHEC, there are 630 potential site locations eligible for the credit. Given the costs associated with constructing, purchasing, and/or leasing solar energy property, taxpayers could potentially claim credits up to the $2,500,000 threshold. Since the tax credits must be taken in five installments and unused credits may be carried forward, we expect General Fund income tax revenue will be reduced by up to $2,500,000 beginning in FY 2019-20 through FY 2025-26, when any carryforward credit will expire.

Section 5. This act takes effect upon approval by the Governor and first applies to credits earned and certificates issued, and the administration thereof, after 2018. Any credits earned and certificates issued, and the administration thereof, before 2019 must be claimed in accordance with the provisions of Section 12-6-3530 as it existed on December 31, 2018. However, any credits earned and certificates issued before 2019 must count toward the aggregate credit limit for all taxpayers in all calendar years set forth in Section 12-6-3530(B).

Local Expenditure
N/A

Local Revenue
N/A

Frank A. Rainwater

Frank A. Rainwater, Executive Director