

105TH CONGRESS
1ST SESSION

H. R. 2254

To amend the Internal Revenue Code of 1986 to allow a credit against income tax for equity investments in community development financial institutions.

IN THE HOUSE OF REPRESENTATIVES

JULY 24, 1997

Mr. KENNEDY of Massachusetts (for himself, Ms. WATERS, Mr. BECERRA, Mr. BONIOR, Mr. GONZALEZ, Mr. BARRETT of Wisconsin, Ms. BROWN of Florida, Mr. BROWN of California, Ms. CARSON, Mr. COYNE, Mr. DAVIS of Illinois, Mr. DEFazio, Mr. Faleomavaega, Mr. FATTah, Mr. FILNER, Mr. FLAKE, Mr. FRANK of Massachusetts, Mr. GUTIERREZ, Mr. HINCHEY, Mr. HINOJOSA, Mr. JACKSON of Illinois, Ms. KILPATRICK, Mr. McDERMOTT, Ms. McKINNEY, Mr. MARTINEZ, Mrs. MEEK of Florida, Ms. MILLENDER-McDONALD, Mr. OLVER, Ms. ROYBAL-ALLARD, Mr. SANDERS, Mr. SCOTT, and Mr. WAXMAN) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to allow a credit against income tax for equity investments in community development financial institutions.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. CREDIT FOR QUALIFIED EQUITY INVESTMENTS**
2 **IN COMMUNITY DEVELOPMENT FINANCIAL**
3 **INSTITUTIONS.**

4 (a) IN GENERAL.—Subpart D of part IV of sub-
5 chapter A of chapter 1 of the Internal Revenue Code of
6 1986 (relating to business-related credits) is amended by
7 adding at the end the following new section:

8 **“SEC. 45D. QUALIFIED EQUITY INVESTMENTS IN COMMU-**
9 **NITY DEVELOPMENT FINANCIAL INSTITU-**
10 **TIONS.**

11 “(a) GENERAL RULE.—For purposes of section 38,
12 the community development financial institution invest-
13 ment credit for any taxable year is an amount equal to
14 the applicable percentage of the qualified equity invest-
15 ment made by the taxpayer during the taxable year.

16 “(b) APPLICABLE PERCENTAGE.—For purposes of
17 subsection (a), the term ‘applicable percentage’ means,
18 with respect to any investment, 25 percent, or, if the
19 CDFI Fund establishes a lower percentage with respect
20 to such investment for purposes of this section, such lower
21 percentage.

22 “(c) QUALIFIED EQUITY INVESTMENT.—For pur-
23 poses of this section—

24 “(1) IN GENERAL.—The term ‘qualified equity
25 investment’ means any stock or partnership interest
26 in a community development financial institution (as

1 defined in section 103 of the Community Develop-
2 ment Banking and Financial Institutions Act of
3 1994 (12 U.S.C. 4702))—

4 “(A) if such institution is designated for
5 purposes of this section by the CDFI Fund,

6 “(B) if such stock or partnership interest
7 is acquired by the taxpayer at its original issue
8 from the institution (directly or through an un-
9 derwriter) in exchange for money or other prop-
10 erty, and

11 “(C) to the extent the amount of such in-
12 vestment is designated for such purposes by
13 such Fund.

14 Rules similar to the rules of section 1202(c)(3) shall
15 apply for purposes of subparagraph (B).

16 “(2) CRITERIA FOR DESIGNATING INSTITU-
17 TIONS.—Designations under paragraph (1)(A) shall
18 be made in accordance with criteria established by
19 the CDFI Fund. In establishing such criteria, the
20 CDFI Fund shall take into account the require-
21 ments and criteria set forth in sections 105(b) and
22 107 of such Act.

23 “(3) CDFI FUND.—The term ‘CDFI Fund’
24 means the Community Development Financial Insti-
25 tutions Fund established by section 104 of such Act.

1 “(d) LIMITATION ON AMOUNT OF CREDIT.—

2 “(1) IN GENERAL.—The amount of credit de-
3 termined under this section for any qualified equity
4 investment shall not exceed the credit amount allo-
5 cated to such investment by the CDFI Fund.

6 “(2) OVERALL LIMITATION.—The aggregate
7 credit amount which may be allocated by the CDFI
8 Fund under this section shall not exceed
9 \$100,000,000.

10 “(e) RECAPTURE OF CREDIT WHERE DISPOSITION
11 OF EQUITY INVESTMENT WITHIN 5 YEARS.—

12 “(1) IN GENERAL.—If the taxpayer disposes of
13 any investment with respect to which a credit was
14 determined under subsection (a) (or any other prop-
15 erty the basis of which is determined in whole or in
16 part by reference to the adjusted basis of such in-
17 vestment) before the end of the 5-year period begin-
18 ning on the date such investment was made, the tax
19 imposed by this chapter for the taxable year in
20 which such disposition occurs shall be increased by
21 the aggregate decrease in tax of the taxpayer result-
22 ing from the credit determined under this subsection
23 (a) with respect to such investment.

1 “(2) EXCEPTIONS.—Paragraph (1) shall not
2 apply to any gift, transfer, or transaction described
3 in paragraph (1), (2), or (3) of section 1245(b).

4 “(3) SPECIAL RULE.—Any increase in tax
5 under paragraph (1) shall not be treated as a tax
6 imposed by this chapter for purposes of—

7 “(A) determining the amount of any credit
8 allowable under this chapter, and

9 “(B) determining the amount of the tax
10 imposed by section 55.

11 “(f) BASIS REDUCTION.—The basis of any qualified
12 equity investment shall be reduced by the amount of any
13 credit determined under this section with respect to such
14 investment.

15 “(g) REGULATIONS.—The Secretary shall prescribe
16 such regulations as may be appropriate to carry out this
17 section. Such regulations may provide for the recapture
18 of the credit under this section with respect to investments
19 in institutions which cease to satisfy the criteria estab-
20 lished by the CDFI Fund for designation under subsection
21 (c)(1)(A).

22 “(h) TERMINATION.—This section shall not apply to
23 any investment made after December 31, 2006.”

24 (b) CREDIT MADE PART OF GENERAL BUSINESS
25 CREDIT.—Subsection (b) of section 38 of such Code is

1 amended by striking “plus” at the end of paragraph (12),
 2 by striking the period at the end of paragraph (13) and
 3 inserting “, plus”, and by adding at the end the following
 4 new paragraph:

5 “(14) the community development financial in-
 6 stitution investment credit determined under section
 7 45D(a).”

8 (c) CREDIT ALLOWED AGAINST REGULAR AND MINI-
 9 MUM TAX.—

10 (1) IN GENERAL.—Subsection (c) of section 38
 11 of such Code (relating to limitation based on amount
 12 of tax) is amended by redesignating paragraph (3)
 13 as paragraph (4) and by inserting after paragraph
 14 (2) the following new paragraph:

15 “(3) SPECIAL RULES FOR COMMUNITY DEVEL-
 16 OPMENT FINANCIAL INSTITUTION INVESTMENT
 17 CREDIT.—

18 “(A) IN GENERAL.—In the case of the
 19 community development financial institution in-
 20 vestment credit—

21 “(i) this section and section 39 shall
 22 be applied separately with respect to the
 23 credit, and

24 “(ii) in applying paragraph (1) to the
 25 credit—

1 “(I) 75 percent of the tentative
 2 minimum tax shall be substituted for
 3 the tentative minimum tax under sub-
 4 paragraph (A) thereof, and

5 “(II) the limitation under para-
 6 graph (1) (as modified by subclause
 7 (I)) shall be reduced by the credit al-
 8 lowed under subsection (a) for the
 9 taxable year (other than the commu-
 10 nity development financial institution
 11 investment credit).

12 “(B) COMMUNITY DEVELOPMENT FINAN-
 13 CIAL INSTITUTION INVESTMENT CREDIT.—For
 14 purposes of this subsection, the term ‘commu-
 15 nity development financial institution invest-
 16 ment credit’ means the credit allowable under
 17 subsection (a) by reason of section 45D(a).”

18 (2) CONFORMING AMENDMENT.—Subclause (II)
 19 of section 38(c)(2)(A)(ii) of such Code is amended
 20 by inserting “and the community development finan-
 21 cial institution investment credit” after “employ-
 22 ment credit”.

23 (d) LIMITATION ON CARRYBACK.—Subsection (d) of
 24 section 39 of such Code is amended by adding at the end
 25 the following new paragraph:

1 “(8) NO CARRYBACK OF COMMUNITY DEVELOP-
 2 MENT FINANCIAL INSTITUTION INVESTMENT CREDIT
 3 BEFORE EFFECTIVE DATE.—No portion of the un-
 4 used business credit for any taxable year which is
 5 attributable to the credit under section 45D may be
 6 carried back to a taxable year ending before the date
 7 of the enactment of section 45D.”

8 (e) DEDUCTION FOR UNUSED CREDIT.—Subsection
 9 (c) of section 196 of such Code is amended by striking
 10 “and” at the end of paragraph (6), by striking the period
 11 at the end of paragraph (7) and inserting “, and”, and
 12 by adding at the end the following new paragraph:

13 “(8) the community development financial insti-
 14 tution investment credit determined under section
 15 45D(a).”

16 (f) CLERICAL AMENDMENT.—The table of sections
 17 for subpart D of part IV of subchapter A of chapter 1
 18 is amended by adding at the end the following new item:

“Sec. 45D. Qualified equity investments in community develop-
 ment financial institutions.”

19 (g) EFFECTIVE DATE.—The amendments made by
 20 this section shall apply to investments made after the date
 21 of the enactment of this Act.

○