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SENATE FILE

242

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Referred to Senate Ways + Means 4/17/03

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the imposition of a revenue nondistribution
2 tax on certain credit unions and including an applicability
3 date provision.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 242
COMMERCE

1 Section 1. Section 422.60, subsection 1, Code 2003, is
2 amended to read as follows:

3 1. a. A franchise tax according to and measured by net
4 income is imposed on financial institutions, except
5 nonqualified credit unions, for the privilege of doing
6 business in this state as financial institutions.

7 b. A revenue nondistribution tax measured by the increase
8 in equity is imposed on nonqualified credit unions for the
9 privilege of doing business in this state as financial
10 institutions.

11 Sec. 2. Section 422.60, subsection 2, Code 2003, is
12 amended by adding the following new unnumbered paragraph after
13 unnumbered paragraph 1:

14 NEW UNNUMBERED PARAGRAPH. A nonqualified credit union
15 incorporated or authorized to do business under chapter 533 is
16 not subject to the state alternative minimum tax.

17 Sec. 3. Section 422.61, Code 2003, is amended by adding
18 the following new subsection:

19 NEW SUBSECTION. 0A. "Equity" means, in the case of a
20 nonqualified credit union, the sum of the regular reserves,
21 undivided earnings, and net income of the credit union as
22 reflected in its annual report under section 533.6. In the
23 case of a credit union designated as serving predominantly
24 low-income members, "equity" also includes uninsured secondary
25 capital.

26 Sec. 4. Section 422.61, subsection 1, Code 2003, is
27 amended to read as follows:

28 1. "Financial institution" means a state bank as defined
29 in section 524.103, subsection 33, a state bank chartered
30 under the laws of any other state, a national banking
31 association, a trust company, a federally chartered savings
32 and loan association, an out-of-state state chartered savings
33 bank, a financial institution chartered by the federal home
34 loan bank board, a non-Iowa chartered savings and loan
35 association, a nonqualified credit union incorporated or

1 authorized to do business under chapter 533, a nonqualified
2 credit union incorporated or authorized to do business under
3 the laws of another state, an association incorporated or
4 authorized to do business under chapter 534, or a production
5 credit association.

6 Sec. 5. Section 422.61, Code 2003, is amended by adding
7 the following new subsections:

8 NEW SUBSECTION. 1A. "Increase in equity", in the case of
9 a nonqualified credit union, means the increase in the amount
10 of equity of the credit union at the end of the taxable year
11 as reflected in its annual report under section 533.6 over the
12 amount of equity of the credit union at the end of the
13 previous taxable year as reflected in the previous year's
14 annual report under section 533.6.

15 NEW SUBSECTION. 3A. "Nonqualified credit union" means a
16 credit union that does not meet the requirements to be a
17 qualified credit union, as specified in section 533.24,
18 subsection 3.

19 Sec. 6. Section 422.61, subsection 3, unnumbered paragraph
20 1, Code 2003, is amended to read as follows:

21 "Net income", for a financial institution other than a
22 nonqualified credit union, means the net income of the
23 financial institution computed in accordance with section
24 422.35, with the following adjustments:

25 Sec. 7. Section 422.62, Code 2003, is amended to read as
26 follows:

27 422.62 DUE AND DELINQUENT DATES.

28 The franchise tax or revenue nondistribution tax, as
29 applicable, is due and payable on the first day following the
30 end of the taxable year of each financial institution~~7~~-and.
31 In the case of a financial institution other than a
32 nonqualified credit union, the tax is delinquent after the
33 last day of the fourth month following the due date or forty-
34 five days after the due date of the federal tax return,
35 excluding extensions of time to file, whichever is the later.

1 In the case of a nonqualified credit union, the tax is
2 delinquent after the last day of the fourth month following
3 the due date. Every financial institution shall file a return
4 as prescribed by the director on or before the delinquency
5 date.

6 Sec. 8. Section 422.63, Code 2003, is amended to read as
7 follows:

8 422.63 AMOUNT OF TAX.

9 The franchise tax is imposed annually in an amount equal to
10 five percent of the net income received or accrued during the
11 taxable year. The revenue nondistribution tax is imposed
12 annually in an amount equal to five percent of the increase in
13 equity for the taxable year. If the net income or increase in
14 equity, as applicable, of the financial institution is derived
15 from its business carried on entirely within the state, the
16 tax shall be imposed on the entire net income or increase in
17 equity, as applicable, but if the business is carried on
18 partly within and partly without the state, the portion of net
19 income or increase in equity, as applicable, reasonably
20 attributable to the business within the state shall be
21 specifically allocated or equitably apportioned within and
22 without the state under rules of the director.

23 Sec. 9. Section 422.66, Code 2003, is amended to read as
24 follows:

25 422.66 DEPARTMENT TO ENFORCE.

26 The department shall administer and enforce the provisions
27 of this division, and all applicable provisions of sections
28 422.24, 422.25, 422.26, 422.28, 422.29, and 422.30, and
29 division VI of this chapter, apply to financial institutions
30 and to the franchise tax and revenue nondistribution tax
31 imposed by this division.

32 Sec. 10. Section 533.24, Code 2003, is amended to read as
33 follows:

34 533.24 TAXATION.

35 1. A credit union shall be deemed an institution for

1 savings and is subject to taxation only as to its real estate
2 and moneys and credits. However, those nonqualified credit
3 unions subject to the state revenue nondistribution tax
4 imposed in chapter 422, division V shall not be taxed on their
5 moneys and credits. The shares shall not be taxed.

6 2. a. The moneys and credits tax on credit unions, except
7 those nonqualified credit unions subject to the state revenue
8 nondistribution tax, is imposed at a rate of five mills on
9 each dollar of the legal and special reserves which are
10 required to be maintained by the credit union under section
11 533.17, and shall be levied by the board of supervisors, and
12 placed upon the tax list and collected by the county
13 treasurer, except that an exemption shall be given to each
14 credit union in the amount of forty thousand dollars. The
15 amount collected in each taxing district within a city shall
16 be apportioned twenty percent to the county, thirty percent to
17 the city general fund, and fifty percent to the general fund
18 of the state, and the amount collected in each taxing district
19 outside of cities shall be apportioned fifty percent to the
20 county and fifty percent to the general fund of the state.
21 The moneys and credits tax shall be collected at the location
22 of the credit union as shown in its articles of incorporation.

23 b. The moneys and credits tax imposed under this **section**
24 subsection shall be reduced by an investment tax credit
25 authorized pursuant to section 15E.43.

26 c. The moneys and credits tax imposed under this **section**
27 subsection shall be reduced by an investment tax credit
28 authorized pursuant to section 15E.51.

29 3. a. A credit union that does not meet the requirements
30 of a qualified credit union as specified in paragraph "b" is
31 subject to the state revenue nondistribution tax imposed in
32 chapter 422, division V.

33 b. A credit union is a qualified credit union if the
34 credit union meets all of the following requirements:

35 (1) The credit union has less than one hundred fifty

1 million dollars in assets as shown in its latest annual report
2 under section 533.6, provided that this requirement shall not
3 apply to a credit union with a field of membership limited
4 exclusively to an occupational, industry, or employer common
5 bond based upon common business, employer, or corporate
6 parent.

7 (2) The credit union does not make or participate in
8 commercial loans or business purpose loans that together at
9 any time exceed an aggregate amount equal to the lesser of one
10 and three-fourths times the credit union's net worth or twelve
11 and one-fourth percent of the credit union's total assets.

12 c. For purposes of this subsection:

13 (1) "Agricultural purpose" means the same as defined in
14 section 535.13.

15 (2) "Business purpose" means a for-profit activity by an
16 individual or a for-profit entity including, but not limited
17 to, a commercial, service, or industrial enterprise carried on
18 for profit, or an investment activity.

19 (3) "Commercial loan" means a loan to an individual or
20 entity for a business purpose or an agricultural purpose.
21 "Commercial loan" does not include a loan the proceeds of
22 which will be used primarily for the purchase, construction,
23 or improvement of real property, including a single-family or
24 a two-family dwelling occupied or to be occupied by the
25 borrower.

26 (4) "Loan" includes the refinancing of a contract of sale,
27 and the refinancing of a prior loan, whether or not the
28 borrower was also the borrower under the prior loan, and the
29 assumption of a prior loan.

30 (5) "Net worth" means the credit union's retained earnings
31 including undivided earnings, regular reserves, and any other
32 appropriations designated by management or regulatory
33 authority.

34 Sec. 11. APPLICABILITY DATE. This Act applies to taxable
35 years beginning on or after the effective date of this Act.

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EXPLANATION

This bill imposes a revenue nondistribution tax as part of the tax on financial institutions doing business in Iowa and subject to taxation by the state on chartered credit unions of this or another state that do not meet certain requirements.

A credit union will not be subject to the revenue nondistribution tax if it has assets of less than \$150 million or its members share a common bond such as single employer or occupation, and it does not make or participate in commercial or business purpose loans of a certain quantity.

For the purpose of computing the tax, the increase in the equity of the credit union determined at the end of the taxable year is the taxable event.

Various credits applicable to the franchise tax apply to the revenue nondistribution tax and the tax is subjected to prepayment requirements.

The moneys and credits tax currently imposed on all credit unions is made inapplicable for those credit unions that are subject to the revenue nondistribution tax.

The bill applies to taxable years beginning on or after the effective date of the bill.