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133rd General Assembly
Regular Session
2019-2020

Sub. H. B. No. 150

A BILL

To amend sections 1121.29 and 5726.01 of the 1
Revised Code to enact the Community Bank Tax 2
Relief Act to exempt newly formed banks from the 3
financial institutions tax for their first three 4
years and to limit the application fees charged 5
by the Superintendent of Financial Institutions 6
for approval to incorporate a state bank. 7

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1121.29 and 5726.01 of the 8
Revised Code be amended to read as follows: 9

Sec. 1121.29. (A) (1) Each bank, savings and loan 10
association, and savings bank subject to inspection and 11
examination by the superintendent of financial institutions and 12
transacting business on the thirty-first day of December, or 13
their successors in interest, shall pay to the treasurer of 14
state assessments as provided in this section. The 15
superintendent shall make each assessment based on the total 16
assets as shown on the books of the bank, savings and loan 17
association, or savings bank as of the thirty-first day of 18



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December of the previous year. The superintendent shall collect 19
the assessment on an annual or periodic basis, as provided by 20
the superintendent. All assessments shall be paid within 21
fourteen days after receiving an invoice for payment of the 22
assessment. 23

(2) After determining the budget of the division of 24
financial institutions for examination and regulation of banks, 25
savings and loan associations, and savings banks, but prior to 26
establishing the schedule of assessments under this division 27
necessary to fund that budget, the superintendent shall consider 28
any necessary cash reserves and any amounts collected but not 29
yet expended or encumbered by the superintendent in the previous 30
fiscal year's budget and remaining in the banks fund pursuant to 31
division (C) of section 1121.30 of the Revised Code. 32

(3) The superintendent shall establish the actual schedule 33
of assessments on an annual basis, present the schedule to the 34
banking commission for confirmation, and forward copies of the 35
current year's schedule to banks, savings and loan associations, 36
and savings banks doing business under authority granted by the 37
superintendent, or their successors in interest. 38

If during the period between the banking commission's 39
confirmation of the schedule of assessments and the completion 40
of the fiscal year in which those assessments will be collected, 41
the banking commission determines additional money is required 42
to adequately fund the operations of the division of financial 43
institutions for that fiscal year, the banking commission may, 44
by the affirmative vote of two-thirds of its members, increase 45
the schedule of assessments for that fiscal year. The 46
superintendent shall promptly notify each bank, savings and loan 47
association, and savings bank of the increased assessment, and 48

each bank, savings and loan association, and savings bank shall 49
pay the increased assessment as made and invoiced by the 50
superintendent. 51

(4) A bank, savings and loan association, or savings bank 52
authorized by the superintendent to commence business in the 53
period between assessments shall pay the actual reasonable costs 54
of the division's examinations and visitations. The bank, 55
savings and loan association, or savings bank shall pay the 56
costs within fourteen days after receiving an invoice for 57
payment. 58

(B) (1) Whenever in the judgment of the superintendent the 59
condition or conduct of a bank renders it necessary to make 60
additional examinations and follow-up visitations within the 61
examination cycle beyond the minimum required by division (A) of 62
section 1121.10 of the Revised Code, the superintendent shall 63
charge the bank for the additional examinations and follow-up 64
visitations as provided in division (C) of this section. The 65
bank shall pay the fee charged within fourteen days after 66
receiving an invoice for payment. 67

(2) The superintendent shall charge a bank for any 68
examination of the bank's operations as a trust company and data 69
processing facility in accordance with division (C) of this 70
section whether that examination is the only examination of the 71
bank in the examination cycle or in addition to other 72
examinations of the bank's operations. 73

(C) The superintendent shall periodically establish a 74
schedule of fees to be paid for examinations, applications, 75
certifications, and notices considered necessary by the 76
superintendent. 77

(D) (1) The superintendent may waive any fees provided for 78
in division (C) of this section to protect the interests of 79
depositors and for other fair and reasonable purposes as 80
determined by the superintendent. 81

(2) (a) The fees established by the superintendent pursuant 82
to division (C) of this section for processing applications and 83
notices and conducting and processing examinations shall be 84
reasonable considering the direct and indirect costs to the 85
division, as determined by the superintendent, of processing the 86
applications and for conducting and processing the examinations. 87

(b) Notwithstanding division (D) (2) (a) of this section, 88
the application fees charged by the superintendent for approval 89
to incorporate a state bank shall not exceed the application 90
fees charged by the office of the comptroller of the currency 91
for approval of a federal charter. 92

(E) The superintendent may determine and charge reasonable 93
fees for furnishing and certifying copies of documents filed 94
with the division and for any expenses incurred by the division 95
in the publication or serving of required notices. 96

(F) Assessments and examination and application fees 97
charged and collected pursuant to this section are not 98
refundable. Any fee charged pursuant to this section shall be 99
paid within fourteen days after receiving an invoice for payment 100
of the fee. 101

(G) The superintendent shall pay all assessments and fees 102
charged pursuant to this section and all forfeitures required to 103
be paid to the superintendent into the state treasury to the 104
credit of the banks fund. 105

Sec. 5726.01. As used in this chapter: 106

(A) "Affiliated group" means a group of two or more 107
persons with fifty per cent or greater of the value of each 108
person's ownership interests owned or controlled directly, 109
indirectly, or constructively through related interests by 110
common owners during all or any portion of the taxable year, and 111
the common owners. "Affiliated group" includes, but is not 112
limited to, any person eligible to be included in a consolidated 113
elected taxpayer group under section 5751.011 of the Revised 114
Code or a combined taxpayer group under section 5751.012 of the 115
Revised Code. 116

(B) "Bank organization" means any of the following: 117

(1) A national bank organized and operating as a national 118
bank association pursuant to the "National Bank Act," 13 Stat. 119
100 (1864), 12 U.S.C. 21, et seq.; 120

(2) A federal savings association or federal savings bank 121
chartered under 12 U.S.C. 1464; 122

(3) A bank, banking association, trust company, savings 123
and loan association, savings bank, or other banking institution 124
that is organized or incorporated under the laws of the United 125
States, any state, or a foreign country; 126

(4) Any corporation organized and operating pursuant to 12
U.S.C. 611, et seq.; 128

(5) Any agency or branch of a foreign bank, as those terms 129
are defined in 12 U.S.C. 3101. 130

"Bank organization" does not include an institution 131
organized under the "Federal Farm Loan Act," 39 Stat. 360 132
(1916), or a successor of such an institution, a company 133
chartered under the "Farm Credit Act of 1933," 48 Stat. 257, or 134
a successor of such a company, an association formed pursuant to 135

12 U.S.C. 2279c-1, an insurance company, or a credit union.	136
(C) "Call report" means the consolidated reports of	137
condition and income prescribed by the federal financial	138
institutions examination council that a person is required to	139
file with a federal regulatory agency pursuant to 12 U.S.C. 161,	140
12 U.S.C. 324, or 12 U.S.C. 1817.	141
(D) "Captive finance company" means a person that derived	142
at least seventy-five per cent of its gross income for the	143
current taxable year and the two taxable years preceding the	144
current taxable year from one or more of the following	145
transactions:	146
(1) Financing transactions with members of its affiliated	147
group;	148
(2) Financing transactions with or for customers of	149
products manufactured or sold by a member of its affiliated	150
group;	151
(3) Financing transactions with or for a distributor or	152
franchisee that sells, leases, or services a product	153
manufactured or sold by a member of the person's affiliated	154
group;	155
(4) Financing transactions with or for a supplier to a	156
member of the person's affiliated group in connection with the	157
member's manufacturing business;	158
(5) Issuing bonds or other publicly traded debt	159
instruments for the benefit of the affiliated group;	160
(6) Short-term or long-term investments whereby the person	161
invests the cash reserves of the affiliated group and the	162
affiliated group utilizes the proceeds from the investments.	163

For the purposes of division (D) of this section, 164
"financing transaction" means making or selling loans, extending 165
credit, leasing, earning or receiving subvention, including 166
interest supplements and other support costs related thereto, or 167
acquiring, selling, or servicing accounts receivable, notes, 168
loans, leases, debt, or installment obligations that arise from 169
the sale or lease of tangible personal property or the 170
performance of services, and "gross income" has the same meaning 171
as in section 61 of the Internal Revenue Code and includes 172
income from transactions between the captive finance company and 173
other members of its affiliated group. 174

A person that has not been in continuous existence for the 175
two taxable years preceding the current taxable year qualifies 176
as a "captive finance company" for purposes of division (D) of 177
this section if the person derived at least seventy-five per 178
cent of its gross income for the period of its existence from 179
one or more of the transactions described in divisions (D) (1) to 180
(6) of this section. 181

"Captive finance company" does not include a small dollar 182
lender. 183

(E) "Credit union" means a nonprofit cooperative financial 184
institution organized or chartered under the laws of this state, 185
any other state, or the United States. 186

(F) "Diversified savings and loan holding company" has the 187
same meaning as in 12 U.S.C. 1467a, as that section existed on 188
January 1, 2012. 189

(G) "Document of creation" means the articles of 190
incorporation of a corporation, articles of organization of a 191
limited liability company, registration of a foreign limited 192

liability company, certificate of limited partnership, 193
registration of a foreign limited partnership, registration of a 194
domestic or foreign limited liability partnership, or 195
registration of a trade name. 196

(H) "Financial institution" means a bank organization, a 197
holding company of a bank organization, or a nonbank financial 198
organization, except when one of the following applies: 199

(1) If two or more such entities are consolidated for the 200
purposes of filing an FR Y-9, "financial institution" means a 201
group consisting of all entities that are included in the FR Y- 202
9. 203

(2) If two or more such entities are consolidated for the 204
purposes of filing a call report, "financial institution" means 205
a group consisting of all entities that are included in the call 206
report and that are not included in a group described in 207
division (H) (1) of this section. 208

(3) If a bank organization is owned directly by a 209
grandfathered unitary savings and loan holding company or 210
directly or indirectly by an entity that was a grandfathered 211
unitary savings and loan holding company on January 1, 2012, 212
"financial institution" means a group consisting only of that 213
bank organization and the entities included in that bank 214
organization's call report, notwithstanding division (H) (1) or 215
(2) of this section. 216

"Financial institution" does not include a de novo bank 217
organization, a diversified savings and loan holding company, a 218
grandfathered unitary savings and loan holding company, any 219
entity that was a grandfathered unitary savings and loan holding 220
company on January 1, 2012, or any entity that is not a bank 221

organization or owned by a bank organization and that is owned 222
directly or indirectly by an entity that was a grandfathered 223
unitary savings and loan holding company on January 1, 2012. 224

(I) "FR Y-9" means the consolidated or parent-only 225
financial statements that a holding company is required to file 226
with the federal reserve board pursuant to 12 U.S.C. 1844. In 227
the case of a holding company required to file both consolidated 228
and parent-only financial statements, "FR Y-9" means the 229
consolidated financial statements that the holding company is 230
required to file. 231

(J) "Grandfathered unitary savings and loan holding 232
company" means an entity described in 12 U.S.C. 1467a(c)(9)(C), 233
as that section existed on December 31, 1999. 234

(K) "Gross receipts" means all items of income, without 235
deduction for expenses. If the reporting person for a taxpayer 236
is a holding company, "gross receipts" includes all items of 237
income reported on the FR Y-9 filed by the holding company. If 238
the reporting person for a taxpayer is a bank organization, 239
"gross receipts" includes all items of income reported on the 240
call report filed by the bank organization. If the reporting 241
person for a taxpayer is a nonbank financial organization, 242
"gross receipts" includes all items of income reported in 243
accordance with generally accepted accounting principles. 244

(L) "Insurance company" means every corporation, 245
association, and society engaged in the business of insurance of 246
any character, or engaged in the business of entering into 247
contracts substantially amounting to insurance of any character, 248
or of indemnifying or guaranteeing against loss or damage, or 249
acting as surety on bonds or undertakings. "Insurance company" 250
also includes any health insuring corporation as defined in 251

section 1751.01 of the Revised Code. 252

(M) (1) "Nonbank financial organization" means every person 253
that is not a bank organization or a holding company of a bank 254
organization and that engages in business primarily as a small 255
dollar lender. "Nonbank financial organization" does not include 256
an institution organized under the "Federal Farm Loan Act," 39 257
Stat. 360 (1916), or a successor of such an institution, an 258
insurance company, a captive finance company, a credit union, an 259
institution organized and operated exclusively for charitable 260
purposes within the meaning of section 501(c) (3) of the Internal 261
Revenue Code, or a person that facilitates or services one or 262
more securitizations for a bank organization, a holding company 263
of a bank organization, a captive finance company, or any member 264
of the person's affiliated group. 265

(2) A person is engaged in business primarily as a small 266
dollar lender if the person has, for the taxable year, gross 267
income from the activities described in division (O) of this 268
section that exceeds the person's gross income from all other 269
activities. As used in division (M) of this section, "gross 270
income" has the same meaning as in section 61 of the Internal 271
Revenue Code, and income from transactions between the person 272
and the other members of the affiliated group shall be 273
eliminated, and any sales, exchanges, and other dispositions of 274
commercial paper to persons outside the affiliated group 275
produces gross income only to the extent the proceeds from such 276
transactions exceed the affiliated group's basis in such 277
commercial paper. 278

(N) "Reporting person" means one of the following: 279

(1) In the case of a financial institution described in 280
division (H) (1) of this section, the top-tier holding company 281

required to file an FR Y-9.	282
(2) In the case of a financial institution described in	283
division (H) (2) or (3) of this section, the bank organization	284
required to file the call report.	285
(3) In the case of a bank organization or nonbank	286
financial organization that is not included in a group described	287
in division (H) (1) or (2) of this section, the bank organization	288
or nonbank financial organization.	289
(O) "Small dollar lender" means any person engaged	290
primarily in the business of loaning money to individuals,	291
provided that the loan amounts do not exceed five thousand	292
dollars and the duration of the loans do not exceed twelve	293
months. A "small dollar lender" does not include a bank	294
organization, credit union, or captive finance company.	295
(P) "Tax year" means the calendar year for which the tax	296
levied under section 5726.02 of the Revised Code is required to	297
be paid.	298
(Q) "Taxable year" means the calendar year preceding the	299
year in which an annual report is required to be filed under	300
section 5726.03 of the Revised Code.	301
(R) "Taxpayer" means a financial institution subject to	302
the tax levied under section 5726.02 of the Revised Code.	303
(S) "Total equity capital" means the sum of the common	304
stock at par value, perpetual preferred stock and related	305
surplus, other surplus not related to perpetual preferred stock,	306
retained earnings, accumulated other comprehensive income,	307
treasury stock, unearned employee stock ownership plan shares,	308
and other equity components of a financial institution. "Total	309
equity capital" shall not include any noncontrolling (minority)	310

interests as reported on an FR Y-9 or call report, unless such 311
interests are in a bank organization or a bank holding company. 312

(T) "Total Ohio equity capital" means the portion of the 313
total equity capital of a financial institution apportioned to 314
Ohio pursuant to section 5726.05 of the Revised Code. 315

(U) "Holding company" does not include a diversified 316
savings and loan holding company, a grandfathered unitary 317
savings and loan holding company, any entity that was a 318
grandfathered unitary savings and loan holding company on 319
January 1, 2012, or any entity that is not a bank organization 320
or owned by a bank organization and that is owned directly or 321
indirectly by an entity that was a grandfathered unitary savings 322
and loan holding company on January 1, 2012. 323

(V) "Securitization" means transferring one or more assets 324
to one or more persons and subsequently issuing securities 325
backed by the right to receive payment from the asset or assets 326
so transferred. 327

(W) "De novo bank organization" means a bank organization 328
that first began operations in the taxable year preceding the 329
current tax year or in either of the two immediately preceding 330
taxable years. 331

Section 2. That existing sections 1121.29 and 5726.01 of 332
the Revised Code are hereby repealed. 333

Section 3. The amendment by this act of section 5726.01 of 334
the Revised Code applies only to bank organizations that first 335
begin operations in the taxable year in which this act takes 336
effect or in any ensuing taxable year. 337