

As Introduced

**133rd General Assembly
Regular Session
2019-2020**

H. B. No. 150

Representative Merrin

A BILL

To amend sections 1121.29, 5726.01, and 5726.04 of 1
the Revised Code to enact the Community Bank Tax 2
Relief Act to reduce the highest financial 3
institutions tax rate, exempt newly formed banks 4
for their first three years, limit the tax base 5
for highly capitalized institutions, and to 6
limit the application fees charged by the 7
Superintendent of Financial Institutions for 8
approval to incorporate a state bank. 9

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

Section 1. That sections 1121.29, 5726.01, and 5726.04 of 10
the Revised Code be amended to read as follows: 11

Sec. 1121.29. (A) (1) Each bank, savings and loan 12
association, and savings bank subject to inspection and 13
examination by the superintendent of financial institutions and 14
transacting business on the thirty-first day of December, or 15
their successors in interest, shall pay to the treasurer of 16
state assessments as provided in this section. The 17
superintendent shall make each assessment based on the total 18
assets as shown on the books of the bank, savings and loan 19

association, or savings bank as of the thirty-first day of 20
December of the previous year. The superintendent shall collect 21
the assessment on an annual or periodic basis, as provided by 22
the superintendent. All assessments shall be paid within 23
fourteen days after receiving an invoice for payment of the 24
assessment. 25

(2) After determining the budget of the division of 26
financial institutions for examination and regulation of banks, 27
savings and loan associations, and savings banks, but prior to 28
establishing the schedule of assessments under this division 29
necessary to fund that budget, the superintendent shall consider 30
any necessary cash reserves and any amounts collected but not 31
yet expended or encumbered by the superintendent in the previous 32
fiscal year's budget and remaining in the banks fund pursuant to 33
division (C) of section 1121.30 of the Revised Code. 34

(3) The superintendent shall establish the actual schedule 35
of assessments on an annual basis, present the schedule to the 36
banking commission for confirmation, and forward copies of the 37
current year's schedule to banks, savings and loan associations, 38
and savings banks doing business under authority granted by the 39
superintendent, or their successors in interest. 40

If during the period between the banking commission's 41
confirmation of the schedule of assessments and the completion 42
of the fiscal year in which those assessments will be collected, 43
the banking commission determines additional money is required 44
to adequately fund the operations of the division of financial 45
institutions for that fiscal year, the banking commission may, 46
by the affirmative vote of two-thirds of its members, increase 47
the schedule of assessments for that fiscal year. The 48
superintendent shall promptly notify each bank, savings and loan 49

association, and savings bank of the increased assessment, and 50
each bank, savings and loan association, and savings bank shall 51
pay the increased assessment as made and invoiced by the 52
superintendent. 53

(4) A bank, savings and loan association, or savings bank 54
authorized by the superintendent to commence business in the 55
period between assessments shall pay the actual reasonable costs 56
of the division's examinations and visitations. The bank, 57
savings and loan association, or savings bank shall pay the 58
costs within fourteen days after receiving an invoice for 59
payment. 60

(B) (1) Whenever in the judgment of the superintendent the 61
condition or conduct of a bank renders it necessary to make 62
additional examinations and follow-up visitations within the 63
examination cycle beyond the minimum required by division (A) of 64
section 1121.10 of the Revised Code, the superintendent shall 65
charge the bank for the additional examinations and follow-up 66
visitations as provided in division (C) of this section. The 67
bank shall pay the fee charged within fourteen days after 68
receiving an invoice for payment. 69

(2) The superintendent shall charge a bank for any 70
examination of the bank's operations as a trust company and data 71
processing facility in accordance with division (C) of this 72
section whether that examination is the only examination of the 73
bank in the examination cycle or in addition to other 74
examinations of the bank's operations. 75

(C) The superintendent shall periodically establish a 76
schedule of fees to be paid for examinations, applications, 77
certifications, and notices considered necessary by the 78
superintendent. 79

(D) (1) The superintendent may waive any fees provided for 80
in division (C) of this section to protect the interests of 81
depositors and for other fair and reasonable purposes as 82
determined by the superintendent. 83

(2) (a) The fees established by the superintendent pursuant 84
to division (C) of this section for processing applications and 85
notices and conducting and processing examinations shall be 86
reasonable considering the direct and indirect costs to the 87
division, as determined by the superintendent, of processing the 88
applications and for conducting and processing the examinations. 89

(b) Notwithstanding division (D) (2) (a) of this section, 90
the application fees charged by the superintendent for approval 91
to incorporate a state bank shall not exceed the application 92
fees charged by the office of the comptroller of the currency 93
for approval of a federal charter. 94

(E) The superintendent may determine and charge reasonable 95
fees for furnishing and certifying copies of documents filed 96
with the division and for any expenses incurred by the division 97
in the publication or serving of required notices. 98

(F) Assessments and examination and application fees 99
charged and collected pursuant to this section are not 100
refundable. Any fee charged pursuant to this section shall be 101
paid within fourteen days after receiving an invoice for payment 102
of the fee. 103

(G) The superintendent shall pay all assessments and fees 104
charged pursuant to this section and all forfeitures required to 105
be paid to the superintendent into the state treasury to the 106
credit of the banks fund. 107

Sec. 5726.01. As used in this chapter: 108

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

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

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

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

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

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

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

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

12 U.S.C. 2279c-1, an insurance company, or a credit union.	138
(C) "Call report" means the consolidated reports of	139
condition and income prescribed by the federal financial	140
institutions examination council that a person is required to	141
file with a federal regulatory agency pursuant to 12 U.S.C. 161,	142
12 U.S.C. 324, or 12 U.S.C. 1817.	143
(D) "Captive finance company" means a person that derived	144
at least seventy-five per cent of its gross income for the	145
current taxable year and the two taxable years preceding the	146
current taxable year from one or more of the following	147
transactions:	148
(1) Financing transactions with members of its affiliated	149
group;	150
(2) Financing transactions with or for customers of	151
products manufactured or sold by a member of its affiliated	152
group;	153
(3) Financing transactions with or for a distributor or	154
franchisee that sells, leases, or services a product	155
manufactured or sold by a member of the person's affiliated	156
group;	157
(4) Financing transactions with or for a supplier to a	158
member of the person's affiliated group in connection with the	159
member's manufacturing business;	160
(5) Issuing bonds or other publicly traded debt	161
instruments for the benefit of the affiliated group;	162
(6) Short-term or long-term investments whereby the person	163
invests the cash reserves of the affiliated group and the	164
affiliated group utilizes the proceeds from the investments.	165

For the purposes of division (D) of this section, 166
"financing transaction" means making or selling loans, extending 167
credit, leasing, earning or receiving subvention, including 168
interest supplements and other support costs related thereto, or 169
acquiring, selling, or servicing accounts receivable, notes, 170
loans, leases, debt, or installment obligations that arise from 171
the sale or lease of tangible personal property or the 172
performance of services, and "gross income" has the same meaning 173
as in section 61 of the Internal Revenue Code and includes 174
income from transactions between the captive finance company and 175
other members of its affiliated group. 176

A person that has not been in continuous existence for the 177
two taxable years preceding the current taxable year qualifies 178
as a "captive finance company" for purposes of division (D) of 179
this section if the person derived at least seventy-five per 180
cent of its gross income for the period of its existence from 181
one or more of the transactions described in divisions (D)(1) to 182
(6) of this section. 183

"Captive finance company" does not include a small dollar 184
lender. 185

(E) "Credit union" means a nonprofit cooperative financial 186
institution organized or chartered under the laws of this state, 187
any other state, or the United States. 188

(F) "Diversified savings and loan holding company" has the 189
same meaning as in 12 U.S.C. 1467a, as that section existed on 190
January 1, 2012. 191

(G) "Document of creation" means the articles of 192
incorporation of a corporation, articles of organization of a 193
limited liability company, registration of a foreign limited 194

liability company, certificate of limited partnership, 195
registration of a foreign limited partnership, registration of a 196
domestic or foreign limited liability partnership, or 197
registration of a trade name. 198

(H) "Financial institution" means a bank organization, a 199
holding company of a bank organization, or a nonbank financial 200
organization, except when one of the following applies: 201

(1) If two or more such entities are consolidated for the 202
purposes of filing an FR Y-9, "financial institution" means a 203
group consisting of all entities that are included in the FR Y- 204
9. 205

(2) If two or more such entities are consolidated for the 206
purposes of filing a call report, "financial institution" means 207
a group consisting of all entities that are included in the call 208
report and that are not included in a group described in 209
division (H) (1) of this section. 210

(3) If a bank organization is owned directly by a 211
grandfathered unitary savings and loan holding company or 212
directly or indirectly by an entity that was a grandfathered 213
unitary savings and loan holding company on January 1, 2012, 214
"financial institution" means a group consisting only of that 215
bank organization and the entities included in that bank 216
organization's call report, notwithstanding division (H) (1) or 217
(2) of this section. 218

"Financial institution" does not include a de novo bank 219
organization, a diversified savings and loan holding company, a 220
grandfathered unitary savings and loan holding company, any 221
entity that was a grandfathered unitary savings and loan holding 222
company on January 1, 2012, or any entity that is not a bank 223

organization or owned by a bank organization and that is owned 224
directly or indirectly by an entity that was a grandfathered 225
unitary savings and loan holding company on January 1, 2012. 226

(I) "FR Y-9" means the consolidated or parent-only 227
financial statements that a holding company is required to file 228
with the federal reserve board pursuant to 12 U.S.C. 1844. In 229
the case of a holding company required to file both consolidated 230
and parent-only financial statements, "FR Y-9" means the 231
consolidated financial statements that the holding company is 232
required to file. 233

(J) "Grandfathered unitary savings and loan holding 234
company" means an entity described in 12 U.S.C. 1467a(c)(9)(C), 235
as that section existed on December 31, 1999. 236

(K) "Gross receipts" means all items of income, without 237
deduction for expenses. If the reporting person for a taxpayer 238
is a holding company, "gross receipts" includes all items of 239
income reported on the FR Y-9 filed by the holding company. If 240
the reporting person for a taxpayer is a bank organization, 241
"gross receipts" includes all items of income reported on the 242
call report filed by the bank organization. If the reporting 243
person for a taxpayer is a nonbank financial organization, 244
"gross receipts" includes all items of income reported in 245
accordance with generally accepted accounting principles. 246

(L) "Insurance company" means every corporation, 247
association, and society engaged in the business of insurance of 248
any character, or engaged in the business of entering into 249
contracts substantially amounting to insurance of any character, 250
or of indemnifying or guaranteeing against loss or damage, or 251
acting as surety on bonds or undertakings. "Insurance company" 252
also includes any health insuring corporation as defined in 253

section 1751.01 of the Revised Code. 254

(M) (1) "Nonbank financial organization" means every person 255
that is not a bank organization or a holding company of a bank 256
organization and that engages in business primarily as a small 257
dollar lender. "Nonbank financial organization" does not include 258
an institution organized under the "Federal Farm Loan Act," 39 259
Stat. 360 (1916), or a successor of such an institution, an 260
insurance company, a captive finance company, a credit union, an 261
institution organized and operated exclusively for charitable 262
purposes within the meaning of section 501(c) (3) of the Internal 263
Revenue Code, or a person that facilitates or services one or 264
more securitizations for a bank organization, a holding company 265
of a bank organization, a captive finance company, or any member 266
of the person's affiliated group. 267

(2) A person is engaged in business primarily as a small 268
dollar lender if the person has, for the taxable year, gross 269
income from the activities described in division (O) of this 270
section that exceeds the person's gross income from all other 271
activities. As used in division (M) of this section, "gross 272
income" has the same meaning as in section 61 of the Internal 273
Revenue Code, and income from transactions between the person 274
and the other members of the affiliated group shall be 275
eliminated, and any sales, exchanges, and other dispositions of 276
commercial paper to persons outside the affiliated group 277
produces gross income only to the extent the proceeds from such 278
transactions exceed the affiliated group's basis in such 279
commercial paper. 280

(N) "Reporting person" means one of the following: 281

(1) In the case of a financial institution described in 282
division (H) (1) of this section, the top-tier holding company 283

required to file an FR Y-9.	284
(2) In the case of a financial institution described in	285
division (H) (2) or (3) of this section, the bank organization	286
required to file the call report.	287
(3) In the case of a bank organization or nonbank	288
financial organization that is not included in a group described	289
in division (H) (1) or (2) of this section, the bank organization	290
or nonbank financial organization.	291
(O) "Small dollar lender" means any person engaged	292
primarily in the business of loaning money to individuals,	293
provided that the loan amounts do not exceed five thousand	294
dollars and the duration of the loans do not exceed twelve	295
months. A "small dollar lender" does not include a bank	296
organization, credit union, or captive finance company.	297
(P) "Tax year" means the calendar year for which the tax	298
levied under section 5726.02 of the Revised Code is required to	299
be paid.	300
(Q) "Taxable year" means the calendar year preceding the	301
year in which an annual report is required to be filed under	302
section 5726.03 of the Revised Code.	303
(R) "Taxpayer" means a financial institution subject to	304
the tax levied under section 5726.02 of the Revised Code.	305
(S) "Total equity capital" means the sum of the common	306
stock at par value, perpetual preferred stock and related	307
surplus, other surplus not related to perpetual preferred stock,	308
retained earnings, accumulated other comprehensive income,	309
treasury stock, unearned employee stock ownership plan shares,	310
and other equity components of a financial institution. "Total	311
equity capital" shall not include any noncontrolling (minority)	312

interests as reported on an FR Y-9 or call report, unless such 313
interests are in a bank organization or a bank holding company. 314

(T) "Total Ohio equity capital" means the portion of the 315
total equity capital of a financial institution apportioned to 316
Ohio pursuant to section 5726.05 of the Revised Code. 317

(U) "Holding company" does not include a diversified 318
savings and loan holding company, a grandfathered unitary 319
savings and loan holding company, any entity that was a 320
grandfathered unitary savings and loan holding company on 321
January 1, 2012, or any entity that is not a bank organization 322
or owned by a bank organization and that is owned directly or 323
indirectly by an entity that was a grandfathered unitary savings 324
and loan holding company on January 1, 2012. 325

(V) "Securitization" means transferring one or more assets 326
to one or more persons and subsequently issuing securities 327
backed by the right to receive payment from the asset or assets 328
so transferred. 329

(W) "De novo bank organization" means a bank organization 330
that first began operations in the taxable year preceding the 331
current tax year or in either of the two immediately preceding 332
taxable years. 333

Sec. 5726.04. (A) The tax levied on a financial 334
institution under this chapter shall be the greater of the 335
following: 336

(1) A minimum tax equal to one thousand dollars; 337

(2) The product of the total Ohio equity capital of the 338
financial institution, as determined under this section, 339
multiplied by the following amounts: 340

(a) For tax years beginning on or before January 1, 2019, 341
eight mills for each dollar of the first two hundred million 342
dollars of total Ohio equity capital, ~~by~~ four mills for each 343
dollar of total Ohio equity capital greater than two hundred 344
million and less than one billion three hundred million dollars, 345
and ~~by~~ two and one-half mills for each dollar of total Ohio 346
equity capital equal to or greater than one billion three 347
hundred million dollars. 348

(b) For tax year 2020, six mills for each dollar of the 349
first two hundred million dollars of total Ohio equity capital, 350
four mills for each dollar of total Ohio equity capital greater 351
than two hundred million and less than one billion three hundred 352
million dollars, and two and one-half mills for each dollar of 353
total Ohio equity capital equal to or greater than one billion 354
three hundred million dollars. 355

(c) For tax year 2021 and each ensuing tax year, four 356
mills for each dollar of the first one billion three hundred 357
million dollars of total Ohio equity capital and two and one- 358
half mills for each dollar of total Ohio equity capital greater 359
than one billion three hundred million dollars. 360

(B) If the reporting person for a financial institution 361
files an FR Y-9 or call report, the total equity capital of the 362
financial institution shall equal the total equity capital shown 363
on the reporting person's FR Y-9 or call report as of the end of 364
the taxable year. The total equity capital of all other 365
financial institutions shall be reported as of the end of the 366
taxable year in accordance with generally accepted accounting 367
principles. 368

(C) For the purposes of this section, "total Ohio equity 369
capital" means the product of (1) the total equity capital of a 370

financial institution as of the end of a taxable year to the 371
extent that the total equity capital does not exceed fourteen 372
per cent of the financial institution's total assets shown on 373
the reporting person's FR-Y9 or call report as of the end of the 374
taxable year, multiplied by (2) the Ohio apportionment ratio 375
calculated for the financial institution under section 5726.05 376
of the Revised Code, except as provided in section 5726.041 of 377
the Revised Code. 378

(D) All payments received from the tax levied under this 379
chapter shall be credited to the general revenue fund. 380

~~(E) (1) As used in this division:—~~ 381

~~(a) "First target tax amount" means two hundred million~~ 382
~~dollars.—~~ 383

~~(b) "Second target tax amount" means one hundred six per~~ 384
~~cent of the first target tax amount or, if applicable, the first~~ 385
~~target tax amount as adjusted under division (E) (2) or (3) of~~ 386
~~this section.—~~ 387

~~(c) "Amount of taxes collected" means the amount of taxes~~ 388
~~received by the tax commissioner from the tax levied under this~~ 389
~~chapter for a tax year, plus the total amount of the tax credit~~ 390
~~authorized by section 5726.57 of the Revised Code claimed on tax~~ 391
~~year 2014 reports, less any amounts refunded to taxpayers for~~ 392
~~the same tax year.—~~ 393

~~(2) If, for the tax year beginning on January 1, 2014, the~~ 394
~~total amount of taxes collected from all taxpayers under this~~ 395
~~chapter is greater than one hundred ten per cent of the first~~ 396
~~target tax amount, the tax commissioner shall decrease each tax~~ 397
~~rate provided in division (A) (2) of this section by a percentage~~ 398
~~equal to the percentage by which the amount of taxes collected~~ 399

~~exceeded the first target tax amount.~~ 400

~~(3) If, for the tax year beginning on January 1, 2014, the total amount of taxes collected from all taxpayers under this chapter is less than ninety per cent of the first target tax amount, the tax commissioner shall increase the tax rate for each dollar of total Ohio equity capital equal to or greater than one billion three hundred million dollars as provided in division (A) (2) of this section by a percentage equal to a fraction, the denominator of which is the aggregate sum of each dollar of each taxpayer's Ohio equity capital greater than or equal to one billion three hundred million dollars, as reported by each taxpayer for tax year 2014, multiplied by the tax rate for each dollar of total Ohio equity capital greater than or equal to one billion three hundred million dollars provided under division (A) (2) of this section, and the numerator of which is the sum of the denominator and the difference obtained by subtracting the amount of taxes collected under this chapter in tax year 2014 from ninety per cent of the first target tax amount.~~ 401
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~~(4) If, for the tax year beginning on January 1, 2016, the total amount of taxes collected from all taxpayers under this chapter is greater than one hundred ten per cent of the second target tax amount, the tax commissioner shall decrease each tax rate in effect on January 1, 2016, by a percentage equal to the percentage by which the amount of taxes collected exceeded the second target tax amount.~~ 419
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~~(5) If, for the tax year beginning on January 1, 2016, the total amount of taxes collected from all taxpayers under this chapter is less than ninety per cent of the second target tax amount, the tax commissioner shall increase the tax rate for~~ 426
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~~each dollar of total Ohio equity capital equal to or greater than one billion three hundred million dollars as provided in division (A) (2) of this section by a percentage equal to a fraction, the denominator of which is the aggregate sum of each dollar of each taxpayer's Ohio equity capital greater than or equal to one billion three hundred million dollars, as reported by each taxpayer for tax year 2016, multiplied by the tax rate for each dollar of total Ohio equity capital greater than or equal to one billion three hundred million dollars provided under division (A) (2) of this section, and the numerator of which is the sum of the denominator and the difference obtained by subtracting the amount of taxes collected under this chapter in tax year 2016 from ninety per cent of the second target tax amount.~~

~~(6) Tax rates adjusted pursuant to division (E) (2), (3), (4), or (5) of this section shall be rounded to the nearest one-tenth of one mill per dollar. The tax commissioner shall publish the new tax rates by journal entry and provide notice of the new tax rates to taxpayers. The new tax rates adjusted pursuant to division (E) (2) or (3) of this section shall apply to tax years beginning on or after January 1, 2015. The new tax rates adjusted pursuant to division (E) (4) or (5) of this section shall apply to tax years beginning on or after January 1, 2017.~~

Section 2. That existing sections 1121.29, 5726.01, and 5726.04 of the Revised Code are hereby repealed.

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

The amendment by this act of section 5726.04 of the

Revised Code applies to tax years beginning on or after January	460
1, 2020.	461