

ASSEMBLY BILL

No. 874

Introduced by Assembly Member Horton

February 22, 2001

An act to amend Section 12209 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 874, as introduced, Horton. Insurance taxation: credit.

Existing insurance tax law requires every insurer, as defined, doing business in this state, to annually pay a tax on gross premiums, as specified, at the rates and subject to the deductions provided by law. Except as otherwise provided, the rate of tax to be applied to the basis of the annual tax in respect to each year is 2.35%. Existing law allows a credit, until January 1, 2002, against that tax on the gross premiums of insurers in an amount equal to 20% of a qualified deposit, as defined, made into a community development financial institution, as defined.

The bill would extend the operation of the credit until January 1, 2005, and would modify the definition of a community development financial institution to include an institution that has affordable low-income housing as its primary mission.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 12209 of the Revenue and Taxation
- 2 Code is amended to read:

1 12209. (a) For each year beginning on or after January 1,
2 1999, and before January 1, ~~2002~~ 2005, there shall be allowed as
3 a credit against the amount of tax, as defined in Section 28 of
4 Article XIII of the California Constitution, an amount equal to 20
5 percent of the amount of each qualified deposit made by a taxpayer
6 during the year into a community development financial
7 institution.

8 (b) For purposes of determining any tax that may be imposed
9 under Section 685 of the Insurance Code on a taxpayer not
10 organized under the laws of this state, the amount of the credit
11 allowed by subdivision (a) shall be treated as a tax paid under
12 Section 12201 or Section 28 of Article XIII of the California
13 Constitution.

14 (c) Notwithstanding any other provision of this part, no credit
15 ~~shall be~~ *is* allowed under this section unless the California
16 Organized Investment Network of the Department of Insurance,
17 or its successor, certifies that the deposit described in subdivision
18 (a) qualifies for the credit under this section and certifies the total
19 amount of the credit allocated to the taxpayer pursuant to this
20 section. The aggregate amount of qualified deposits made by all
21 taxpayers pursuant to this section, Section 17053.57, and Section
22 23657 shall not exceed ten million dollars (\$10,000,000) for each
23 calendar year.

24 (d) The community development financial institution shall do
25 all of the following:

26 (1) Apply to the California Organized Investment Network, or
27 its successor, for certification of its status as a community
28 development financial institution.

29 (2) Apply to the California Organized Investment Network, or
30 its successor, on behalf of the taxpayer for certification of the
31 credit amount allocated to the taxpayer prior to accepting any
32 qualified deposit from the taxpayer.

33 (3) Transmit to the taxpayer and the California Organized
34 Investment Network, or its successor, certification that a qualified
35 deposit has been accepted, the amount of the deposit or equity
36 investment, and the amount of the credit to which the taxpayer is
37 entitled, and retain a copy of the certification.

38 (4) Obtain the taxpayer's California company identification
39 number for tax administration purposes and provide this



1 information to the California Organized Investment Network, or
2 its successor, with the transmittal required in paragraph (3).

3 (5) Provide an annual listing to the board, in the form and
4 manner agreed upon by the board and the California Organized
5 Investment Network, or its successor, of the names and taxpayer's
6 California company identification numbers of any taxpayer who
7 makes any withdrawal or partial withdrawal of a qualified deposit
8 before the expiration of 60 months from the date of the qualified
9 deposit.

10 (e) The California Organized Investment Network, or any
11 successor thereof, shall do all of the following:

12 (1) Accept applications for certification from financial
13 institutions and issue certificates that the applicant is a community
14 development financial institution qualified to receive qualified
15 deposits.

16 (2) Accept applications for certification from any community
17 development financial institution on behalf of the taxpayer and
18 issue certificates to taxpayers in an aggregate amount that ~~shall~~
19 *may* not exceed the limit specified in subdivision (c). The
20 certificate shall include the amount eligible to be made as a deposit
21 or equity investment that qualifies for the credit and the total
22 amount of the credit to which the taxpayer is entitled for the year.
23 Certificates shall be issued in the order that the applications are
24 received.

25 (3) Provide an annual listing to the board, in the form or manner
26 agreed upon by the board and the California Organized Investment
27 Network, or its successor, of the taxpayers who were issued
28 certificates, their respective National Association of Insurance
29 Commissioners company number and employer's tax
30 identification number, the amount of the qualified deposit made by
31 each taxpayer, and the total amount of qualified deposits.

32 (f) For purposes of this section:

33 (1) "Qualified deposit" means a deposit that does not earn
34 interest, or an equity investment, that is equal to or greater than
35 fifty thousand dollars (\$50,000) and is made for a minimum
36 duration of 60 months.

37 (2) "Community development financial institution" means a
38 private financial institution located in this state that is certified by
39 the California Organized Investment Network, or its successor,
40 that has community development *or affordable low-income*



1 *housing* as its primary mission, and that lends in urban, rural, or
2 reservation-based communities in this state. A community
3 development financial institution may include a community
4 development bank, a community development loan fund, a
5 community development credit union, a microenterprise fund, a
6 community development corporation-based lender, and a
7 community development venture fund.

8 (g) (1) If a qualified deposit is withdrawn before the end of the
9 60th month and not redeposited or reinvested in another
10 community development financial institution within 60 days,
11 there shall be added to the “tax,” as defined in Section 28 of
12 Article XIII of the California Constitution, for the year in which
13 the withdrawal occurs, the entire amount of any credit previously
14 allowed under this section.

15 (2) If a qualified deposit is reduced before the end of the 60th
16 month, but not below fifty thousand dollars (\$50,000), there shall
17 be added to the “tax,” as defined in Section 28 of Article XIII of
18 the California Constitution, for the income year in which the
19 reduction occurs, an amount equal to 20 percent of the total
20 reduction for the year.

21 (h) In the case where the credit allowed by this section exceeds
22 the “tax,” the excess may be carried over to reduce the “tax” for
23 the next four years, or until the credit has been exhausted,
24 whichever occurs first.

25 (i) This section shall remain in effect only until December 31,
26 ~~2002~~ 2005, and as of that date is repealed. However, any unused
27 credit may continue to be carried forward, as provided in
28 subdivision (h), until the credit is exhausted.

29 (j) *The amendments made to this section by the act adding this*
30 *subdivision shall apply only to taxable years beginning on or after*
31 *January 1, 2001.*

32 SEC. 2. This act provides for a tax levy within the meaning of
33 Article IV of the Constitution and shall go into immediate effect.

