

AMENDED IN ASSEMBLY JUNE 19, 2001

AMENDED IN SENATE MAY 3, 2001

AMENDED IN SENATE APRIL 23, 2001

**SENATE BILL**

**No. 409**

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**Introduced by Senator Vincent**

February 21, 2001

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An act to amend Sections 12209, 17053.57, and 23657 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 409, as amended, Vincent. Income bank and corporation taxes: credit: qualified deposits.

The Personal Income Tax Law and the Bank and Corporation Tax Law, and existing law with respect to the taxation of insurers, authorize, until January 1, 2002, an annual tax credit in an amount equal to 20% of a qualified deposit, as defined, made into a community development financial institution, as defined.

This bill would extend the expiration date of the credit to January 1, 2007, *would clarify the types of investments eligible for the credit, and would modify, as specified, limits on the amount of those eligible investments. This bill would also make various technical changes.*

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:

3 12209. (a) For each year beginning on or after January 1,  
4 1999, and before January 1, 2007, there shall be allowed as a credit  
5 against the amount of tax, as defined in Section 28 of Article XIII  
6 of the California Constitution, an amount equal to 20 percent of the  
7 amount of each qualified ~~deposit~~ *investment* made by a taxpayer  
8 during the year into a community development financial  
9 institution.

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

16 (c) Notwithstanding any other provision of this part, no credit  
17 shall be allowed under this section unless the California Organized  
18 Investment ~~Network of the Department of Insurance, or its~~  
19 ~~successor~~ *Network, or its successor within the Department of*  
20 *Insurance*, certifies that the ~~deposit~~ *investment* described in  
21 subdivision (a) qualifies for the credit under this section and  
22 certifies the total amount of the credit allocated to the taxpayer  
23 pursuant to this section. The aggregate amount of qualified  
24 ~~deposits~~ *investments* made by all taxpayers pursuant to this  
25 section, Section 17053.57, and Section 23657 shall not exceed ten  
26 million dollars (\$10,000,000) for each calendar year. *However, if*  
27 *the aggregate amount of qualified investments made in any*  
28 *calendar year is less than ten million dollars (\$10,000,000), the*  
29 *difference may be carried over to the next year, and any succeeding*  
30 *year during which this section remains in effect, and added to the*  
31 *aggregate amount authorized for those years.*

32 (d) The community development financial institution shall do  
33 all of the following:

34 (1) Apply to the *Department of Insurance*, California  
35 Organized Investment Network, or its successor, for certification  
36 of its status as a community development financial institution.

37 (2) Apply to the *Department of Insurance*, California  
38 Organized Investment Network, or its successor, on behalf of the



1 taxpayer for certification of the ~~credit amount allocated to the~~  
2 ~~taxpayer prior to accepting any qualified deposit from the~~  
3 ~~taxpayer.~~

4 ~~(3) Transmit to the taxpayer and the California Organized~~  
5 ~~Investment Network, or its successor, certification that a qualified~~  
6 ~~deposit has been accepted, the amount of the deposit or equity~~  
7 ~~investment, and the amount of the credit to which the taxpayer is~~  
8 ~~entitled, amount of the investment and the credit amount allocated~~  
9 ~~to the taxpayer, obtain the certification, and retain a copy of the~~  
10 certification.

11 ~~(4)~~  
12 (3) Obtain the taxpayer's California company identification  
13 number for tax administration purposes and provide this  
14 information to the *Department of Insurance*, California Organized  
15 Investment Network, or its successor, with the ~~transmittal required~~  
16 ~~in paragraph (3)~~ *application required in paragraph (2)*.

17 ~~(5)~~  
18 (4) Provide an annual listing to the ~~board~~ *State Board of*  
19 *Equalization*, in the form and manner agreed upon by the ~~board~~  
20 ~~and the State Board of Equalization and the Department of~~  
21 *Insurance*, California Organized Investment Network, or its  
22 successor, of the names and taxpayer's California company  
23 identification numbers of any taxpayer who makes any withdrawal  
24 or partial withdrawal of a qualified ~~deposit investment~~ before the  
25 expiration of 60 months from the date of the qualified ~~deposit~~  
26 *investment*.

27 (e) The *Department of Insurance*, California Organized  
28 Investment Network, or any successor thereof, shall do all of the  
29 following:

30 (1) Accept applications for certification from financial  
31 institutions and issue certificates that the applicant is a community  
32 development financial institution qualified to receive qualified  
33 ~~deposits investments~~.

34 (2) Accept applications for certification from any community  
35 development financial institution on behalf of the taxpayer and  
36 issue certificates to taxpayers in an aggregate amount that shall not  
37 exceed the limit specified in subdivision (c). The certificate shall  
38 include the amount eligible to be made as a ~~deposit or equity an~~  
39 investment that qualifies for the credit and the total amount of the



1 credit to which the taxpayer is entitled for the year. Certificates  
2 shall be issued in the order that the applications are received.

3 (3) Provide an annual listing to the ~~board~~ *State Board of*  
4 *Equalization*, in the form or manner agreed upon by the ~~board and~~  
5 ~~the State Board of Equalization and the Department of Insurance~~,  
6 California Organized Investment Network, or its successor, of the  
7 taxpayers who were issued certificates, their respective National  
8 Association of Insurance Commissioners company number and  
9 employer's tax identification number, the amount of the qualified  
10 ~~deposit~~ *investment* made by each taxpayer, and the total amount of  
11 qualified ~~deposits~~ *investments*.

12 (f) For purposes of this section:

13 (1) ~~“Qualified deposit” means a deposit investment~~ *means a*  
14 *deposit or loan* that does not earn interest, or an equity investment,  
15 ~~that is~~ *or an equity-like debt instrument that conforms to the*  
16 *specifications for these instruments as prescribed by the United*  
17 *States Department of the Treasury, Community Development*  
18 *Financial Institutions Fund, or its, successor. All qualified*  
19 *investments must be equal to or greater than fifty thousand dollars*  
20 *(\$50,000) and is made for a minimum duration of 60 months.*

21 (2) “Community development financial institution” means a  
22 private financial institution located in this state that is certified by  
23 the *Department of Insurance*, California Organized Investment  
24 Network, or its successor, that has community development as its  
25 primary mission, and that lends in urban, rural, or  
26 reservation-based communities in this state. A community  
27 development financial institution may include a community  
28 development bank, a community development loan fund, a  
29 community development credit union, a microenterprise fund, a  
30 community development corporation-based lender, and a  
31 community development venture fund.

32 (g) (1) If a qualified ~~deposit~~ *investment* is withdrawn before  
33 the end of the 60th month and not ~~redeposited~~ or reinvested in  
34 another community development financial institution within 60  
35 days, there shall be added to the “tax,” as defined in Section 28  
36 of Article XIII of the California Constitution, for the year in which  
37 the withdrawal occurs, the entire amount of any credit previously  
38 allowed under this section.

39 (2) If a qualified ~~deposit~~ *investment* is reduced before the end  
40 of the 60th month, but not below fifty thousand dollars (\$50,000),



1 there shall be added to the “tax,” as defined in Section 28 of  
2 Article XIII of the California Constitution, for the taxable year in  
3 which the reduction occurs, an amount equal to 20 percent of the  
4 total reduction for the year.

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

9 (i) *The State Board of Equalization shall, as requested by the*  
10 *Department of Insurance, California Organized Investment*  
11 *Network or its successor, advise and assist in the administration of*  
12 *this section.*

13 (j) This section shall remain in effect only until December 31,  
14 2007, and as of that date is repealed. ~~However, any unused credit~~  
15 ~~may continue to be carried forward, as provided in subdivision (h),~~  
16 ~~until the credit is exhausted.~~

17 SEC. 2. Section 17053.57 of the Revenue and Taxation Code  
18 is amended to read:

19 17053.57. (a) For each taxable year beginning on or after  
20 January 1, 1997, and before January 1, 2007, there shall be allowed  
21 as a credit against the amount of “net tax,” as defined in Section  
22 17039, an amount equal to 20 percent of the amount of each  
23 qualified ~~deposit investment~~ made by a taxpayer during the taxable  
24 year into a community development financial institution.

25 (b) Notwithstanding any other provision of this part, no credit  
26 shall be allowed under this section unless the California Organized  
27 Investment ~~Network of the Department of Insurance, or its~~  
28 ~~successor, Network, or its successor within the Department of~~  
29 *Insurance, certifies that the deposit investment described in*  
30 *subdivision (a) qualifies for the credit under this section and*  
31 *certifies the total amount of the credit allocated to the taxpayer*  
32 *pursuant to this section. The aggregate amount of qualified*  
33 ~~deposits investments~~ *made by all taxpayers pursuant to this section*  
34 *section, Section 12209, and Section 23657 shall not exceed ten*  
35 *million dollars (\$10,000,000) for each calendar year. However, if*  
36 *the aggregate amount of qualified investments made in any*  
37 *calendar year is less than ten million dollars (\$10,000,000), the*  
38 *difference may be carried over to the next year, and any succeeding*  
39 *year during which this section remains in effect, and added to the*  
40 *aggregate amount authorized for those years.*



1 (c) The Community Development Financial Institution shall  
2 do all of the following:

3 (1) Apply to the *Department of Insurance*, California  
4 Organized Investment Network, or its successor, for certification  
5 of its status as a Community Development Financial Institution.

6 (2) Apply to the *Department of Insurance*, California  
7 Organized Investment Network, or its successor, on behalf of the  
8 taxpayer for certification of the ~~credit amount allocated to the~~  
9 ~~taxpayer prior to accepting any qualified deposit from the~~  
10 ~~taxpayer.~~

11 ~~(3) Transmit to the taxpayer and the California Organized~~  
12 ~~Investment Network, or its successor, certification that a qualified~~  
13 ~~deposit has been accepted, the amount of the deposit or equity~~  
14 ~~investment, and the amount of credit to which the taxpayer is~~  
15 ~~entitled amount of the investment and the credit amount allocated~~  
16 ~~to the taxpayer, obtain the certification, and retain a copy of the~~  
17 ~~certification.~~

18 ~~(4)–~~

19 (3) Obtain the taxpayer's identification number, or in the case  
20 of a partnership, the taxpayer identification numbers of all the  
21 partners for tax administration purposes and provide this  
22 information to the *Department of Insurance*, California Organized  
23 Investment Network, or its successor, with the ~~transmittal~~  
24 ~~required in paragraph (3) application required in paragraph (2).~~

25 ~~(5)–~~

26 (4) Provide an annual listing to the Franchise Tax Board, in the  
27 form and manner agreed upon by the Franchise Tax Board and the  
28 *Department of Insurance*, California Organized Investment  
29 Network, or its successor, of the names and taxpayer identification  
30 numbers of any taxpayer who makes any withdrawal or partial  
31 withdrawal of a qualified ~~deposit investment~~ before the expiration  
32 of 60 months from the date of the qualified ~~deposit investment~~.

33 (d) The *Department of Insurance*, California Organized  
34 Investment Network, or any successor thereof, shall do all of the  
35 following:

36 (1) Accept applications for certification from financial  
37 institutions and issue certificates that the applicant is a Community  
38 Development Financial Institution qualified to receive qualified  
39 ~~deposits investments~~.



1 (2) Accept applications for certification from any Community  
2 Development Financial Institution on behalf of the taxpayer and  
3 issue certificates to taxpayers in an aggregate amount that shall not  
4 exceed the limit specified in subdivision (b). The certificate shall  
5 include the amount eligible to be made as a ~~deposit or equity~~ *an*  
6 investment that qualifies for the credit and the total amount of the  
7 credit to which the taxpayer is entitled for the taxable year.  
8 Certificates shall be issued in the order in which the applications  
9 are received.

10 (3) Provide an annual listing to the Franchise Tax Board, in a  
11 form or manner agreed upon by the Franchise Tax ~~Board,~~ *Board*  
12 *and the Department of Insurance, California Organized*  
13 *Investment Network, or its successor* of the taxpayers who were  
14 issued certificates, their respective tax identification numbers, the  
15 amount of the qualified ~~deposit~~ *investment* made by each taxpayer,  
16 and the total amount of all qualified ~~deposits~~ *investments*.

17 (e) For purposes of this section:

18 (1) ~~“Qualified deposit” means a deposit investment~~ *“Qualified deposit” means a*  
19 *deposit or loan that does not earn interest, or an equity investment,*  
20 ~~that is~~ *or an equity-like debt instrument that conforms to the*  
21 *specifications for these instruments as prescribed by the United*  
22 *States Department of the Treasury, Community Development*  
23 *Financial Institutions Fund, or its successor. All qualified*  
24 *investments must be equal to or greater than fifty thousand dollars*  
25 *(\$50,000) and is made for a minimum duration of 60 months.*

26 (2) “Community development financial institution” means a  
27 private financial institution located in this state that is certified by  
28 the *Department of Insurance, California Organized Investment*  
29 *Network, or its successor, that has community development as its*  
30 *primary mission, and that lends in urban, rural, or*  
31 *reservation-based communities in this state. A community*  
32 *development financial institution may include a community*  
33 *development bank, a community development loan fund, a*  
34 *community development credit union, a microenterprise fund, a*  
35 *community development corporation-based lender, and a*  
36 *community development venture fund.*

37 (f) (1) If a qualified ~~deposit~~ *investment* is withdrawn before  
38 the end of the 60th month and not ~~redeposited or~~ *reinvested* in  
39 another Community Development Financial Institution within 60  
40 days, there shall be added to the “net tax,” as defined in Section



1 17039, for the taxable year in which the withdrawal occurs, the  
2 entire amount of any credit previously allowed under this section.

3 (2) If a qualified ~~deposit~~ *investment* is reduced before the end  
4 of the 60th month, but not below fifty thousand dollars (\$50,000),  
5 there shall be added to the “net tax,” as defined in Section 17039,  
6 for the taxable year in which the reduction occurs, an amount equal  
7 to 20 percent of the total reduction for the taxable year.

8 (g) In the case where the credit allowed by this section exceeds  
9 the “net tax,” the excess may be carried over to reduce the “net  
10 tax” for the next four taxable years, or until the credit has been  
11 exhausted, whichever occurs first.

12 (h) *The Franchise Tax Board shall, as requested by the*  
13 *Department of Insurance, California Organized Investment*  
14 *Network or its successor, advise and assist in the administration of*  
15 *this section.*

16 (i) This section shall remain in effect only until December 1,  
17 2007, and as of that date is repealed.

18 SEC. 3. Section 23657 of the Revenue and Taxation Code is  
19 amended to read:

20 23657. (a) For each taxable year beginning on or after  
21 January 1, 1997, and before January 1, 2007, there shall be allowed  
22 as a credit against the amount of “tax,” as defined in Section  
23 23036, an amount equal to 20 percent of the amount of each  
24 qualified ~~deposit~~ *investment* made by a taxpayer during the taxable  
25 year into a community development financial institution.

26 (b) Notwithstanding any other provision of this part, no credit  
27 shall be allowed under this section unless the California Organized  
28 ~~Investment Network of the Department of Insurance, or its~~  
29 ~~successor~~ *Network, or its successor within the Department of*  
30 *Insurance, certifies that the ~~deposit~~ investment described in*  
31 *subdivision (a) qualifies for the credit under this section and*  
32 *certifies the total amount of the credit allocated to the taxpayer*  
33 *pursuant to this section. The aggregate amount of qualified*  
34 ~~*deposits investments*~~ *made by all taxpayers pursuant to this ~~section~~*  
35 *section, Section 12209, and Section 17053.57 shall not exceed ten*  
36 *million dollars (\$10,000,000) for each calendar year. However, if*  
37 *the aggregate amount of qualified investments made in any*  
38 *calendar year is less than ten million dollars (\$10,000,000), the*  
39 *difference may be carried over to the next year, and any succeeding*



1 year during which this section remains in effect, and added to the  
2 aggregate amount authorized for those years.

3 (c) The Community Development Financial Institution shall  
4 do all of the following:

5 (1) Apply to the *Department of Insurance*, California  
6 Organized Investment Network, or its successor, for certification  
7 of its status as a Community Development Financial Institution.

8 (2) Apply to the *Department of Insurance*, California  
9 Organized Investment Network, or its successor, on behalf of the  
10 taxpayer, for certification of the ~~credit amount allocated to the~~  
11 ~~taxpayer prior to accepting any qualified deposit from the~~  
12 ~~taxpayer.~~

13 ~~(3) Transmit to the taxpayer and the California Organized~~  
14 ~~Investment Network, or its successor, certification that a qualified~~  
15 ~~deposit has been accepted, amount of the deposit or equity~~  
16 ~~investment, and the amount of credit to which the taxpayer is~~  
17 ~~entitled amount of the investment and the credit amount allocated~~  
18 ~~to the taxpayer, obtain the certification, and retain a copy of the~~  
19 ~~certification.~~

20 ~~(4)~~

21 (3) Obtain the taxpayer's identification number, or in the case  
22 of an "S corporation," the taxpayer identification numbers of all  
23 the shareholders for tax administration purposes and provide this  
24 information to the *Department of Insurance*, California Organized  
25 Investment Network, or its successor, with the ~~transmittal required~~  
26 ~~in paragraph (3) application required in paragraph (2).~~

27 ~~(5)~~

28 (4) Provide an annual listing to the Franchise Tax Board, in the  
29 form and manner agreed upon by the Franchise Tax Board and the  
30 *Department of Insurance*, California Organized Investment  
31 Network, or its successor, of the names and taxpayer identification  
32 numbers of any taxpayer who makes any withdrawal or partial  
33 withdrawal of a qualified ~~deposit investment~~ before the expiration  
34 of 60 months from the date of the qualified ~~deposit investment~~.

35 (d) The *Department of Insurance*, California Organized  
36 Investment Network, or any successor thereof, shall do all of the  
37 following:

38 (1) Accept applications for certification from financial  
39 institutions and issue certificates that the applicant is a Community



1 Development Financial Institution qualified to receive qualified  
2 ~~deposits investments.~~

3 (2) Accept applications for certification from any Community  
4 Development Financial Institution on behalf of the taxpayer and  
5 issue certificates to taxpayers in an aggregate amount that shall not  
6 exceed the limit specified in subdivision (b). The certificate shall  
7 include the amount eligible to be made as a ~~deposit or equity an~~  
8 investment that qualifies for the credit and the total amount of the  
9 credit to which the taxpayer is entitled for the taxable year.  
10 Certificates shall be issued in the order that the applications are  
11 received.

12 (3) Provide an annual listing to the Franchise Tax Board, in the  
13 form or manner agreed upon by the Franchise Tax Board and the  
14 *Department of Insurance*, California Organized Investment  
15 Network, or its successor, of the taxpayers who were issued  
16 certificates, their respective tax identification numbers, the  
17 amount of the qualified ~~deposit investment~~ made by each taxpayer,  
18 and the total amount of all qualified ~~deposits investments~~.

19 (e) For purposes of this section:

20 (1) “Qualified ~~deposit~~” ~~means a deposit investment~~ means a  
21 *deposit or loan* that does not earn interest, or an equity investment,  
22 ~~that is or an equity-like debt instrument that conforms to the~~  
23 *specifications for these instruments as prescribed by the United*  
24 *States Department of the Treasury, Community Development*  
25 *Financial Institutions Fund, or its successor. All qualified*  
26 *investments must be equal to or greater than fifty thousand dollars*  
27 *(\$50,000) and is made for a minimum duration of 60 months.*

28 (2) “Community development financial institution” means a  
29 private financial institution located in this state that is certified by  
30 the *Department of Insurance*, California Organized Investment  
31 Network, or its successor, that has community development as its  
32 primary mission, and that lends in urban, rural, or  
33 reservation-based communities in this state. A community  
34 development financial institution may include a community  
35 development bank, a community development loan fund, a  
36 community development credit union, a microenterprise fund, a  
37 community development corporation-based lender, and a  
38 community development venture fund.

39 (f) (1) If a qualified ~~deposit investment~~ is withdrawn before  
40 the end of the 60th month and not ~~redeposited or~~ reinvested in



1 another Community Development Financial Institution within 60  
2 days, there shall be added to the “tax,” as defined in Section  
3 23036, for the taxable year in which the withdrawal occurs, the  
4 entire amount of any credit previously allowed under this section.

5 (2) If a qualified ~~deposit~~ *investment* is reduced before the end  
6 of the 60th month, but not below fifty thousand dollars (\$50,000),  
7 there shall be added to the “tax,” as defined in Section 23036, for  
8 the taxable year in which the reduction occurs, an amount equal to  
9 20 percent of the total reduction for the taxable year.

10 (g) In the case where the credit allowed by this section exceeds  
11 the “tax,” the excess may be carried over to reduce the “tax” for  
12 the next four taxable years, or until the credit has been exhausted,  
13 whichever occurs first.

14 (h) *The Franchise Tax Board shall, as requested by the*  
15 *Department of Insurance, California Organized Investment*  
16 *Network or its successor, advise and assist in the administration of*  
17 *this section.*

18 (i) This section shall remain in effect only until December 1,  
19 2007, and as of that date is repealed.

20 SEC. 4. This act provides for a tax levy within the meaning of  
21 Article IV of the Constitution and shall go into immediate effect.

