

Senate Bill No. 409

CHAPTER 535

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.

[Approved by Governor October 4, 2001. Filed with Secretary of State October 5, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

SB 409, Vincent. Income and 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.

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

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

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

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

(c) Notwithstanding any other provision of this part, no credit shall be allowed under this section unless the California Organized Investment Network, or its successor within the Department of



Insurance, certifies that the investment described in subdivision (a) qualifies for the credit under this section and certifies the total amount of the credit allocated to the taxpayer pursuant to this section. The aggregate amount of qualified investments made by all taxpayers pursuant to this section, Section 17053.57, and Section 23657 shall not exceed ten million dollars (\$10,000,000) for each calendar year. However, if the aggregate amount of qualified investments made in any calendar year is less than ten million dollars (\$10,000,000), the difference may be carried over to the next year, and any succeeding year during which this section remains in effect, and added to the aggregate amount authorized for those years.

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

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

(2) Apply to the Department of Insurance, California Organized Investment Network, or its successor, on behalf of the taxpayer for certification of the amount of the investment and the credit amount allocated to the taxpayer, obtain the certification, and retain a copy of the certification.

(3) Obtain the taxpayer's California company identification number for tax administration purposes and provide this information to the Department of Insurance, California Organized Investment Network, or its successor, with the application required in paragraph (2).

(4) Provide an annual listing to the State Board of Equalization, in the form and manner agreed upon by the State Board of Equalization and the Department of Insurance, California Organized Investment Network, or its successor, of the names and taxpayer's California company identification numbers of any taxpayer who makes any withdrawal or partial withdrawal of a qualified investment before the expiration of 60 months from the date of the qualified investment.

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

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

(2) Accept applications for certification from any community development financial institution on behalf of the taxpayer and issue certificates to taxpayers in an aggregate amount that shall not exceed the limit specified in subdivision (c). The certificate shall include the amount eligible to be made as an investment that qualifies for the credit and the total amount of the credit to which the taxpayer is entitled for the



year. Certificates shall be issued in the order that the applications are received.

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

(f) For purposes of this section:

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

(2) "Community development financial institution" means a private financial institution located in this state that is certified by the Department of Insurance, California Organized Investment Network, or its successor, that has community development as its primary mission, and that lends in urban, rural, or reservation-based communities in this state. A community development financial institution may include a community development bank, a community development loan fund, a community development credit union, a microenterprise fund, a community development corporation-based lender, and a community development venture fund.

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

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

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



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

(j) This section shall remain in effect only until December 31, 2007, and as of that date is repealed.

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

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

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

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

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

(2) Apply to the Department of Insurance, California Organized Investment Network, or its successor, on behalf of the taxpayer for certification of the amount of the investment and the credit amount allocated to the taxpayer, obtain the certification, and retain a copy of the certification.

(3) Obtain the taxpayer’s identification number, or in the case of a partnership, the taxpayer identification numbers of all the partners for tax administration purposes and provide this information to the Department of Insurance, California Organized Investment Network, or its successor, with the application required in paragraph (2).



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

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

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

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

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

(e) For purposes of this section:

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

(2) “Community development financial institution” means a private financial institution located in this state that is certified by the Department of Insurance, California Organized Investment Network, or its successor, that has community development as its primary mission, and that lends in urban, rural, or reservation-based communities in this state. A community development financial institution may include a community development bank, a community development loan fund, a community development credit union, a microenterprise fund, a



community development corporation-based lender, and a community development venture fund.

(f) (1) If a qualified investment is withdrawn before the end of the 60th month and not reinvested in another Community Development Financial Institution within 60 days, there shall be added to the “net tax,” as defined in Section 17039, for the taxable year in which the withdrawal occurs, the entire amount of any credit previously allowed under this section.

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

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

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

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

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

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

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



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

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

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

(2) Apply to the Department of Insurance, California Organized Investment Network, or its successor, on behalf of the taxpayer, for certification of the amount of the investment and the credit amount allocated to the taxpayer, obtain the certification, and retain a copy of the certification.

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

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

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

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

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

(3) Provide an annual listing to the Franchise Tax Board, in the form or manner agreed upon by the Franchise Tax Board and the Department of Insurance, California Organized Investment Network, or its successor, of the taxpayers who were issued certificates, their respective



tax identification numbers, the amount of the qualified investment made by each taxpayer, and the total amount of all qualified investments.

(e) For purposes of this section:

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

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

(f) (1) If a qualified investment is withdrawn before the end of the 60th month and not reinvested in another Community Development Financial Institution within 60 days, there shall be added to the “tax,” as defined in Section 23036, for the taxable year in which the withdrawal occurs, the entire amount of any credit previously allowed under this section.

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

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

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

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



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

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