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AMENDED IN SENATE JULY 15, 2010
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AMENDED IN SENATE JUNE 29, 2009
AMENDED IN ASSEMBLY JUNE 1, 2009
AMENDED IN ASSEMBLY APRIL 15, 2009
CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1011

Introduced by Assembly Member Jones

February 27, 2009

An act to amend Sections 926.1, 926.2, and 12939 of, ~~and to add Division 4.1 (commencing with Section 13925) to,~~ the Insurance Code, relating to insurer investment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1011, as amended, Jones. Insurance: green investments.

Existing law requires each admitted insurer to provide information biennially to the Insurance Commissioner on all of its community development investments and community development infrastructure investments, as defined, in California. The commissioner and the Department of Insurance are required to provide certain information on these investments to the public, as specified. These provisions are to remain in effect only until January 1, 2011, and are repealed as of that date.

This bill would make findings and declarations relating to California's role in greenhouse gas reduction, and would include green investments,

as defined, as community development investments. The bill would require the commissioner, on the department’s Internet Web site, to biennially identify those insurers that make investments that qualify as green investments and the aggregate amount of identified insurer investments in green investments. The bill would extend the date for repealing those provisions to January 1, 2015.

The bill would make changes to findings and declarations relating to specialized financial institutions and tax incentives for their capitalization.

~~This bill would authorize insurers to claim a 20% credit for green investments against the amount of gross premiums tax owed by the insurer, as specified.~~

The bill would incorporate additional changes to Section 926.2 of the Insurance Code, proposed by AB 41 of the 2009–10 Regular Session, to be operative only if both bills are chaptered and become effective on or before January 1, 2011, and this bill is chaptered last.

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. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Climate change will have detrimental effects on some of
- 4 California’s largest industries, including the insurance industry. It
- 5 will also increase the strain on energy and natural resources
- 6 necessary to rebuild and restore property after losses.
- 7 (b) National and international actions are necessary to fully
- 8 address the issue of climate change. However, actions taken in
- 9 California to reduce emissions of greenhouse gases will have
- 10 far-reaching effects by encouraging other states, the federal
- 11 government, and other countries to act.
- 12 (c) By exercising a global leadership role, California and its
- 13 state-based businesses will also position California’s economy,
- 14 technology centers, financial institutions, and businesses to benefit
- 15 from national and international efforts to reduce emissions of
- 16 greenhouse gases. More importantly, investing in and fostering
- 17 the development of innovative and pioneering technologies will
- 18 assist California businesses and communities in achieving
- 19 reductions in the emissions of greenhouse gases and will provide

1 an opportunity for the state, including the state’s businesses, to
2 take a global economic and technological leadership role in
3 reducing emissions of greenhouse gases.

4 (d) By increasing incentives for reduced driving, the building
5 of “green buildings,” investments in energy efficiency
6 improvements and renewable energy projects, and the conservation
7 of natural resources, the insurance industry can help reduce
8 greenhouse gas emissions.

9 (e) By making investments that support community development
10 financial institutions in low- and moderate-income communities,
11 including needed financial services, economic development, and
12 housing, the insurance community can help those communities
13 better accommodate new growth in compact forms, so as to
14 deemphasize automobile dependency, integrate new growth into
15 existing communities, support a diversity of affordable housing
16 near employment centers, and create jobs.

17 (f) Making this new capital available furthers important green
18 objectives by enabling communities to focus on the use and reuse
19 of existing urbanized lands supplied with infrastructure as the situs
20 for new growth, and by helping those communities grow through
21 new capital investment in the maintenance and rehabilitation of
22 existing infrastructure so that the reuse and reinvention of city
23 centers and existing transportation corridors and community spaces
24 through mixed-use development, affordable housing opportunities,
25 safe, reliable, and efficient multimodal transportation systems, and
26 transit-oriented development are encouraged.

27 SEC. 2. Section 926.1 of the Insurance Code is amended to
28 read:

29 926.1. As used in this article, the following terms shall have
30 the following meanings:

31 (a) “Area median income” (AMI) means either of the following:

32 (1) The median family income for the Metropolitan Statistical
33 Area (MSA), if a person or geography is located in an MSA, or
34 for the metropolitan division, if a person or geography is located
35 in an MSA that has been subdivided into metropolitan divisions.

36 (2) The statewide nonmetropolitan median family income, if a
37 person or geography is located outside an MSA.

38 (b) “Community development investment” means an investment
39 where all or a portion of the investment has as its primary purpose
40 community development for, or that directly benefits, California

1 ~~low-income~~ low- or moderate-income individuals, families, or
2 communities. “Community development investment” includes,
3 but is not limited to, investments in California in the following:

4 (1) Affordable housing, including multifamily rental and
5 ownership housing, for ~~low-income~~ low- or moderate-income
6 individuals or families.

7 (2) Community facilities or community services providers
8 (including providers of education, health, or social services)
9 directly benefiting ~~low-income~~ low- or moderate-income
10 individuals, families, or communities.

11 (3) Economic development that demonstrates benefits, including,
12 but not limited to, job creation, retention, or improvement, or
13 provision of needed capital, to ~~low-income~~, low- or
14 moderate-income, individuals, families, or communities, including
15 urban or rural communities, or businesses or nonprofit community
16 service organizations that serve these communities.

17 (4) Activities that revitalize or stabilize ~~low-income~~ low- or
18 moderate-income communities.

19 (5) Investments in or through California Organized Investment
20 Network (COIN)-certified community development financial
21 institutions (CDFIs) and investments made pursuant to the
22 requirements of federal, state, or local community development
23 investment programs or community development investment tax
24 incentive programs, including green investments, if these
25 investments directly benefit ~~low-income~~, low- or moderate-income;
26 individuals, families, and communities and are consistent with this
27 article.

28 (6) Community development infrastructure investments.

29 (7) Investments in a commercial property or properties located
30 in ~~low-income~~ low- or moderate-income geographical areas and
31 are consistent with this article.

32 (c) “Community development infrastructure” means California
33 public debt (including all debt issued by the State of California or
34 a California state or local government agency) where all or a
35 portion of the debt has as its primary purpose community
36 development for, or that directly benefits, ~~low-income~~ low- or
37 moderate-income communities and is consistent with subdivision
38 (b).

39 (d) “Geography” means a census tract delineated by the United
40 States Bureau of the Census in the most recent decennial census.

1 (e) “Green investments” means investments that emphasize
2 renewable energy projects, economic development, and affordable
3 housing focused on infill sites so as to reduce the degree of
4 automobile dependency and promote the use and reuse of existing
5 urbanized lands supplied with infrastructure for the purpose of
6 accommodating new growth and jobs. “Green investments” also
7 means investments that can help communities grow through new
8 capital investment in the maintenance and rehabilitation of existing
9 infrastructure so that the reuse and reinvention of city centers and
10 existing transportation corridors and community space, including
11 projects offering energy efficiency improvements and renewable
12 energy generation, including, but not limited to, solar and wind
13 power, mixed-use development, affordable housing opportunities,
14 multimodal transportation systems, and transit-oriented
15 development, can advance economic development, jobs, and
16 housing.

17 (f) “Insurer” means an admitted insurer as defined in Section
18 24, including the State Compensation Insurance Fund, or a
19 domestic fraternal benefit society as defined in Section 10990.

20 (g) “Investment” means a lawful equity or debt investment, or
21 loan, or deposit obligation, or other investment or investment
22 transaction allowed by the Insurance Code.

23 (h) “Low-income” means an individual income that is less than
24 50 percent of the AMI, or a median family income that is less than
25 50 percent of the AMI in the case of a geographical area.

26 (i) “MSA” means a metropolitan statistical area as defined by
27 the Director of the Office of Management and Budget.

28 (j) ~~“Moderate income”~~ “*Moderate-income*” means an individual
29 income that is at least 50 percent but less than 80 percent of the
30 AMI, or a median family income that is at least 50 percent but less
31 than 80 percent of the AMI in the case of a geographical area.

32 (k) “Nonmetropolitan area” means any area that is not located
33 in an MSA.

34 SEC. 3. Section 926.2 of the Insurance Code is amended to
35 read:

36 926.2. (a) Each insurer admitted in California shall provide
37 information biennially to the commissioner on all its community
38 development investments and community development
39 infrastructure investments in California. This information shall be
40 provided as part of the required filing pursuant to Section 900 or

1 Section 11131, or through a data call, or by other means as
2 determined by the commissioner. COIN shall provide insurers
3 with information on why investments, if any, were found not to
4 be qualified by the commissioner.

5 (b) The commissioner shall biennially provide information on
6 the department's Internet Web site on the aggregate insurer
7 community development investments and community development
8 infrastructure investments. Insurers that make investments that are
9 innovative, responsive to community needs, not routinely provided
10 by insurers, qualify as green investments, or have a high degree
11 of positive impact on the economic welfare of ~~low-income~~ *low-*
12 *or moderate-income* individuals, families, or communities in urban
13 or rural California shall be identified.

14 (c) The department shall also biennially provide information
15 on the department's Internet Web site regarding the aggregate
16 amount of California public debt (including all debt issued by the
17 State of California or a California ~~State~~ *state* or local government
18 agency) purchased by insurers as reported to the department in
19 their National Association of Insurance Commissioners (NAIC)
20 annual statement filing pursuant to Section 900 or Section 11131.

21 (d) The department shall also biennially provide on its Internet
22 Web site the aggregate amount of identified California investments,
23 as reported to the NAIC in the annual statement filed pursuant to
24 Section 900 or Section 11131.

25 (e) The department shall also biennially provide information
26 on its Internet Web site regarding the aggregate amount of
27 identified California insurer investments in green investments.

28 (f) The first report under this article shall be filed with the
29 commissioner by May 31, 2007.

30 (g) Insurers that did not comply with the voluntary community
31 investment data call issued by the commissioner in May 2005 shall
32 provide the information requested therein to the commissioner on
33 or before February 28, 2007.

34 (h) This article shall remain in effect only until January 1, 2015,
35 and as of that date is repealed, unless a later enacted statute, that
36 is enacted before January 1, 2015, deletes or extends that date.

37 ~~(i) Nothing in this article shall limit the authority of the~~
38 ~~commissioner to ask for data concerning community development~~
39 ~~investments on a voluntary basis on or after January 1, 2014, if~~
40 ~~this article is not extended.~~

1 SEC. 3.5. Section 926.2 of the Insurance Code is amended to
2 read:

3 926.2. (a) (1) Each insurer admitted in California shall provide
4 ~~information biennially~~ information, by January 1, 2014, to the
5 commissioner on all ~~its Community Development Investments~~
6 ~~and Community Development Infrastructure Investments~~ of its
7 community development investments and community development
8 infrastructure investments in California. This information shall be
9 provided as part of the required filing pursuant to Section 900 or
10 Section 11131, or through a data call, or by other means as
11 determined by the commissioner. COIN shall provide insurers
12 with information on why investments, if any, were found not to
13 be qualified by the commissioner.

14 (2) Nothing in this subdivision shall preclude an insurer that is
15 a member of an insurance holding company system, as defined in
16 Article 4.7 (commencing with Section 1215) of Chapter 2, from
17 complying with paragraph (1) through a single filing on behalf of
18 the entire group of affiliated companies, provided that the data so
19 filed accurately reflects the investments made by each of the
20 affiliates, and accurately attributes, by National Association of
21 Insurance Commissioners (NAIC) number or other identifier
22 required by the commissioner, which of the investments were made
23 by each affiliated company.

24 (3) Nothing in this subdivision shall preclude an insurer from
25 satisfying the requirements of paragraph (1) through a filing made
26 by a community development financial institution, provided all of
27 the following conditions are met:

28 (A) The insurer has no less than a 10 percent ownership interest
29 in a COIN-certified community development financial institution.

30 (B) The insurer makes community development investments and
31 community development infrastructure investments in and through
32 the community development financial institution.

33 (C) The community development financial institution accurately
34 files the information required by paragraph (1) with the
35 commissioner on behalf of the insurer and accurately attributes,
36 by NAIC number or other identifier required by the commissioner,
37 which investments, including the dollar amounts of the investments,
38 were made by each insurer on whose behalf the community
39 development financial institution is reporting.

1 (b) The commissioner ~~shall biennially~~ *shall, by May 31, 2014,*
 2 provide information on the department’s Internet Web site on the
 3 aggregate insurer ~~Community Development Investments and~~
 4 ~~Community Development Infrastructure Investments~~ *community*
 5 *development investments and community development*
 6 *infrastructure investments*. Insurers that make investments that are
 7 innovative, responsive to community needs, not routinely provided
 8 by insurers, *qualify as green investments*, or have a high degree
 9 of positive impact on the economic welfare of ~~low-income~~ *low-*
 10 *or moderate-income* individuals, families, or communities in urban
 11 or rural California shall be identified.

12 (c) The department ~~shall also biennially~~ *also, by May 31, 2014,*
 13 provide information on the department’s Internet Web site
 14 regarding the aggregate amount of California public debt (including
 15 all debt issued by the State of California or a California ~~State~~ *state*
 16 or local government agency) purchased by insurers as reported to
 17 the department in their ~~National Association of Insurance~~
 18 ~~Commissioners (NAIC)~~ *NAIC* annual statement filing pursuant to
 19 Section 900 or Section 11131.

20 (d) The department ~~shall also biennially~~ *also, by May 31, 2014,*
 21 provide on its Internet Web site the aggregate amount of identified
 22 California investments, as reported to the NAIC in the annual
 23 statement filed pursuant to Section 900 or Section 11131.

24 (e) ~~The first report under this article shall be filed with the~~
 25 ~~commissioner by May 31, 2007.~~

26 (f) ~~Insurers that did not comply with the voluntary community~~
 27 ~~investment data call issued by the commissioner in May 2005 shall~~
 28 ~~provide the information requested therein to the commissioner on~~
 29 ~~or before February 28, 2007.~~

30 (e) *The department shall also biennially provide information*
 31 *on its Internet Web site regarding the aggregate amount of*
 32 *identified California insurer investments in green investments.*

33 (g)

34 (f) This article shall remain in effect only until January 1, ~~2011,~~
 35 ~~2015~~, and as of that date is repealed, unless a later enacted statute,
 36 that is enacted before January 1, ~~2011,~~ ~~2015~~, deletes or extends
 37 that date.

38 (h) ~~Nothing in this article shall limit the authority of the~~
 39 ~~commissioner to ask for data concerning community development~~

1 ~~investments on a voluntary basis on or after January 1, 2010, if~~
2 ~~this article is not extended.~~

3 SEC. 4. Section 12939 of the Insurance Code is amended to
4 read:

5 12939. The Legislature finds and declares all of the following:

6 (a) There are specialized financial institutions in California that
7 are specifically dedicated to, and whose core purpose is to, provide
8 financial products and services to people and communities
9 underserved by traditional financial markets and to support
10 renewable energy projects, energy efficiency improvements,
11 economic development, and affordable housing in these
12 communities. These community development financial institutions
13 or CDFIs seek to bridge the growing gap that exists between the
14 financial products and services, renewable energy generation,
15 energy efficiency improvements, economic development, and
16 affordable housing available to the economic mainstream and those
17 offered to low-income people and communities, as well as the
18 nonprofit institutions that serve them. In addition, they serve a
19 critical role in addressing issues of poverty and access to credit in
20 economically disadvantaged communities by providing services,
21 including, but not limited to, credit counseling to consumers,
22 financial literacy training, homeownership counseling,
23 entrepreneurial education, and technical assistance to small
24 business owners.

25 (b) These mission-driven financial institutions require additional
26 capital in order to expand their ability to provide financial products
27 and services, and to promote needed renewable energy generation
28 projects, energy efficiency improvements, economic development,
29 and affordable housing for low-income individuals and
30 communities, and the businesses and nonprofit agencies that serve
31 them. For example, some offer responsible alternatives to high-cost
32 check-cashing services and payday lenders that have moved into
33 low-income communities. Others help finance small businesses,
34 affordable housing, and community services and facilities that, in
35 turn, help stabilize low-income neighborhoods and alleviate
36 poverty.

37 (c) In carrying out their mission, funding community
38 development is given priority over providing high returns to
39 investors.

1 (d) It is the intent of the Legislature to provide an incentive in
 2 the form of California tax credits to attract much needed additional
 3 private capital investments that would not otherwise be available
 4 to CDFIs without the benefit of such incentive. It is the expectation
 5 of the Legislature that CDFIs will leverage these new investment
 6 dollars for the direct benefit of economically disadvantaged
 7 communities and low-income people in California.

8 ~~SEC. 5. Division 4.1 (commencing with Section 13925) is~~
 9 ~~added to the Insurance Code, to read:~~

10

11 ~~DIVISION 4.1. GREEN INSURANCE TAX CREDIT AND~~
 12 ~~INVESTMENT~~

13

14 ~~13925. (a) For each taxable year beginning on or after January~~
 15 ~~1, 2011, there shall be allowed, as a credit against the tax, as~~
 16 ~~defined in Section 28 of Article XIII of the California Constitution,~~
 17 ~~an amount equal to 20 percent of the amount of each qualified~~
 18 ~~investment made by a taxpayer during the taxable year into green~~
 19 ~~investments certified by the department.~~

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

25 ~~(c) Notwithstanding any other provision of this section, no credit~~
 26 ~~shall be allowed under this section unless the department certifies~~
 27 ~~that the investment qualifies for the credit under this section and~~
 28 ~~certifies the total amount of the credit allocated to the taxpayer~~
 29 ~~pursuant to this section.~~

30 ~~(d) No credit shall be allowed by this section unless there is an~~
 31 ~~application for certification as a green investment and the taxpayer~~
 32 ~~provides satisfactory substantiation to, and in the form and manner~~
 33 ~~requested by, the department.~~

34 ~~(e) For purposes of this section, a “green investment” means an~~
 35 ~~investment that emphasizes clean energy projects, energy efficiency~~
 36 ~~improvements, green technology projects, and other investments~~
 37 ~~that conserve natural resources or reduce greenhouse gas emissions.~~

38 ~~(f) The commissioner shall establish a task force to investigate~~
 39 ~~innovative insurance products that could bolster the development~~
 40 ~~of California’s clean energy and green technology industries, and~~

1 encourage investments in clean energy and green technology by
2 insurance companies. The members of the task force shall include,
3 but not be limited to, entrepreneurs, business leaders, and insurance
4 experts who specialize in emerging companies.

5 (g) A person or entity seeking certification of a green investment
6 shall do all of the following:

7 (1) Apply to the department for certification of a green
8 investment.

9 (2) Apply to the department, on behalf of the taxpayer, for
10 certification of the amount of the investment and the credit amount
11 allocated to the taxpayer, obtain the certification, and retain a copy
12 of the certification.

13 (3) Obtain the taxpayer's California company identification
14 number for tax administration purposes and provide that
15 information to the department, with the application required in
16 paragraph (2).

17 (4) Provide an annual listing to the State Board of Equalization,
18 in the form and manner agreed upon by the State Board of
19 Equalization and the department, of the names and taxpayer's
20 California company identification numbers of any taxpayer who
21 makes any withdrawal or partial withdrawal of a qualified
22 investment before the expiration of 60 months from the date of
23 the qualified investment.

24 (h) The commissioner may develop instructions, procedures,
25 and standards for applications, and for administering the criteria
26 for the evaluation of applications, under this section. The
27 commissioner may, from time to time, issue regulations to
28 implement the provisions of this section.

29 (i) The aggregate amount of qualified investments made by all
30 taxpayers pursuant to this section shall not exceed five million
31 dollars (\$5,000,000) for each calendar year. However, if the
32 aggregate amount of qualified investments made in any calendar
33 year is less than five million dollars (\$5,000,000), the difference
34 may be carried over to the next year, and any succeeding year
35 during which this section remains in effect, and added to the
36 aggregate amount authorized for those years.

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

1 ~~(k) The State Board of Equalization shall, as requested by the~~
2 ~~department and the California Organized Investment Network or~~
3 ~~its successor, advise and assist in the administration of this section.~~

4 ~~(l) The department shall biennially provide information on the~~
5 ~~department's Internet Web site regarding the aggregate amount of~~
6 ~~identified California investments in green investments.~~

7 *SEC. 5. Nothing in Article 10.1 (commencing with Section*
8 *926.1) of Chapter 1 of Part 2 of Division 1 of the Insurance Code*
9 *shall limit the authority of the Insurance Commissioner to ask for*
10 *data concerning community development investments and*
11 *community development infrastructure investments on a voluntary*
12 *basis on or after January 1, 2015, if that article is not extended*
13 *beyond that date.*

14 *SEC. 6. Section 3.5 of this bill incorporates amendments to*
15 *Section 926.2 of the Insurance Code proposed by both this bill*
16 *and AB 41. It shall only become operative if (1) both bills are*
17 *enacted and become effective on or before January 1, 2011, (2)*
18 *each bill amends Section 926.2 of the Insurance Code, and (3) this*
19 *bill is enacted after AB 41, in which case Section 3 of this bill shall*
20 *not become operative.*