Assembly Bill No. 1011

CHAPTER 418

An act to amend Sections 926.1, 926.2, and 12939 of the Insurance Code, relating to insurer investment.

[Approved by Governor September 28, 2010. Filed with Secretary of State September 28, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1011, 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 These provisions are to remain in effect only until January 1, 2011, and are repealed as of that date.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.

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.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Climate change will have detrimental effects on some of California's largest industries, including the insurance industry. It will also increase the strain on energy and natural resources necessary to rebuild and restore property after losses.

(b) National and international actions are necessary to fully address the issue of climate change. However, actions taken in California to reduce

emissions of greenhouse gases will have far-reaching effects by encouraging other states, the federal government, and other countries to act.

(c) By exercising a global leadership role, California and its state-based businesses will also position California's economy, technology centers, financial institutions, and businesses to benefit from national and international efforts to reduce emissions of greenhouse gases. More importantly, investing in and fostering the development of innovative and pioneering technologies will assist California businesses and communities in achieving reductions in the emissions of greenhouse gases and will provide an opportunity for the state, including the state's businesses, to take a global economic and technological leadership role in reducing emissions of greenhouse gases.

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

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

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

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

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

(a) "Area median income" (AMI) means either of the following:

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

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

(b) "Community development investment" means an investment where all or a portion of the investment has as its primary purpose community development for, or that directly benefits, California low- or moderate-income individuals, families, or communities. "Community

development investment" includes, but is not limited to, investments in California in the following:

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

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

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

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

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

(6) Community development infrastructure investments.

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

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

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

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

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

(g) "Investment" means a lawful equity or debt investment, or loan, or deposit obligation, or other investment or investment transaction allowed by the Insurance Code.

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

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

(j) "Moderate-income" means an individual income that is at least 50 percent but less than 80 percent of the AMI, or a median family income that is at least 50 percent but less than 80 percent of the AMI in the case of a geographical area.

(k) "Nonmetropolitan area" means any area that is not located in an MSA.

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

926.2. (a) Each insurer admitted in California shall provide information biennially to the commissioner on all its community development investments and community development infrastructure investments in California. This information shall be provided as part of the required filing pursuant to Section 900 or Section 11131, or through a data call, or by other means as determined by the commissioner. COIN shall provide insurers with information on why investments, if any, were found not to be qualified by the commissioner.

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

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

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

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

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

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

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

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

926.2. (a) (1) Each insurer admitted in California shall provide information, by January 1, 2014, to the commissioner on all of its community development investments and community development infrastructure investments in California. This information shall be provided as part of the required filing pursuant to Section 900 or Section 11131, or through a data call, or by other means as determined by the commissioner. COIN shall provide insurers with information on why investments, if any, were found not to be qualified by the commissioner.

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

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

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

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

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

(b) The commissioner shall, by May 31, 2014, provide information on the department's Internet Web site on the aggregate insurer community development investments and community development infrastructure investments. Insurers that make investments that are innovative, responsive to community needs, not routinely provided by insurers, qualify as green

investments, or have a high degree of positive impact on the economic welfare of low- or moderate-income individuals, families, or communities in urban or rural California shall be identified.

(c) The department shall also, by May 31, 2014, provide information on the department's Internet Web site regarding the aggregate amount of California public debt (including all debt issued by the State of California or a California state or local government agency) purchased by insurers as reported to the department in their NAIC annual statement filing pursuant to Section 900 or Section 11131.

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

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

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

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

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

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

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

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

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

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

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

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