

AMENDED IN ASSEMBLY MARCH 4, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 32**

---

---

**Introduced by Assembly Member John A. Pérez**

December 3, 2012

---

---

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

AB 32, as amended, John A. Pérez. Insurance taxes: income taxes: credits: community development financial institution investments.

Existing laws governing the taxation of insurers, the Personal Income Tax Law, and the Corporation Tax Law, authorize, until January 1, 2017, a credit in an amount equal to 20% of a qualified investment, as defined, made into a community development financial institution, as defined, but not to exceed, in the aggregate amount under all those laws, \$10,000,000 per year. *Existing law provides that a credit shall not be allowed under those laws unless the California Organized Investment Network certifies that the investment made by the taxpayer is a qualified investment, as defined.*

The bill would increase the \$10,000,000 limitation on the aggregate amount of qualified investments to ~~\$20,000,000~~ \$50,000,000. *This bill would prohibit the total amount of investments certified by the California Organized Investment Network in any calendar year to any one community development financial institution from exceeding 30% of the annual aggregate amount of qualified investments, except as specified. This bill would require that each year 10% of the annual aggregate amount of qualified investments be reserved for investment*

amounts of less than or equal to \$200,000, as specified. This bill would also allow the California Organized Investment Network to certify investments for the credit until January 1, 2017.

Existing law authorizes the California Organized Investment Network, in allocating qualified investment credits, when certain conditions are met, to prioritize applications for those credits, as specified.

This bill would revise those conditions.

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 Code  
2 is amended to read:

3 12209. (a) For each year beginning on or after January 1, 1999,  
4 and before January 1, 2017, 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  
7 the amount of each qualified investment made by a taxpayer during  
8 the taxable year into a community development financial institution  
9 that is certified by the Department of Insurance, California  
10 Organized Investment Network, or any successor thereof.

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

17 (c) (1) Notwithstanding any other provision of this part, a credit  
18 shall not be allowed under this section unless the California  
19 Organized Investment Network, or its successor within the  
20 Department of Insurance, certifies that the investment described  
21 in 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.

24 (2) A credit shall not be allowed by this section unless the  
25 applicant and the taxpayer provide satisfactory substantiation to,  
26 and in the form and manner requested by, the Department of  
27 Insurance, California Organized Investment Network, or any

1 successor thereof, that the investment is a qualified investment as  
2 defined in paragraph (1) of subdivision (h).

3 (3) (A) The aggregate amount of qualified investments made  
4 by all taxpayers pursuant to this section, Section 17053.57, and  
5 Section 23657 shall not exceed ~~twenty million dollars~~  
6 ~~(\$20,000,000)~~ *fifty million dollars (\$50,000,000)* for each calendar  
7 year. However, if the aggregate amount of qualified investments  
8 made in any calendar year is less than ~~twenty million dollars~~  
9 ~~(\$20,000,000)~~ *fifty million dollars (\$50,000,000)*, the difference  
10 may be carried over to the next year, and any succeeding year  
11 during which this section remains in effect, and added to the  
12 aggregate amount authorized for those years.

13 (B) *The total amount of qualified investments certified by the*  
14 *California Organized Investment Network in any calendar year*  
15 *to any one community development financial institution together*  
16 *with its affiliates, as defined in Section 1215 of the Insurance Code,*  
17 *shall not exceed 30 percent of the annual aggregate amount of*  
18 *qualified investments certified by the California Organized*  
19 *Investment Network. If after October 1, the California Organized*  
20 *Investment Network has determined that the availability of tax*  
21 *credits exceed their demand, then a community development*  
22 *financial institution that has been allocated 30 percent of the*  
23 *annual aggregate amount of qualified investments shall become*  
24 *eligible to apply to be certified for any remaining tax credits in*  
25 *that calendar year.*

26 (C) *Each year, 10 percent of the annual aggregate amount of*  
27 *qualified investments shall be reserved for investment amounts of*  
28 *less than or equal to two hundred thousand dollars (\$200,000). If*  
29 *after October 1, there remains an unallocated portion of the*  
30 *amount reserved for investments of less than or equal to two*  
31 *hundred thousand dollars (\$200,000), then qualified investments*  
32 *in excess of two hundred thousand dollars (\$200,000) may be*  
33 *eligible for that remaining unallocated portion.*

34 (4) If the California Organized Investment Network determines  
35 that total qualified investments will exceed the aggregate amount  
36 of qualified investments made by all taxpayers specified in  
37 paragraph (3), priority shall be granted to those applications that  
38 meet ~~any or all~~ *one or both* of the following:

39 (A) Directly benefit low-income persons.

1 ~~(B) Prioritize rental housing, mortgages for community-based~~  
2 ~~residential programs, and self-help housing ahead of single-family~~  
3 ~~owned housing.~~

4 ~~(C)~~

5 (B) Represent investments from insurance companies subject  
6 to tax under Section 12201 of this code or under Section 28 of  
7 Article XIII of the California Constitution.

8 *(5) If the application would support housing, priority shall be*  
9 *given to applications that support affordable rental housing,*  
10 *housing for veterans, mortgages for community-based residential*  
11 *programs, and self-help housing ahead of single-family owned*  
12 *housing.*

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

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

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

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

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

36 (5) Submit reports to the department, California Organized  
37 Investment Network, or any successor thereof, as required pursuant  
38 to subdivision (a) of Section 12939.1 of the Insurance Code.

1 (e) The California Organized Investment Network may certify  
2 investments for the credit allowed by this section on or before  
3 January 1, ~~2015~~ 2017, but not after that date.

4 (f) The Insurance Commissioner may develop instructions,  
5 procedures, and standards for applications, and for administering  
6 the criteria for the evaluation of applications under this section.  
7 The Insurance Commissioner may, from time to time, issue  
8 regulations to implement the provisions of this section.

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

12 (1) Accept and evaluate applications for certification from  
13 financial institutions and issue certificates that the applicant is a  
14 community development financial institution qualified to receive  
15 qualified investments. To receive a certificate, an applicant shall  
16 satisfy the Department of Insurance, California Organized  
17 Investment Network, or any successor thereof, that it meets the  
18 specific requirements to be a community development financial  
19 institution for this state program as defined in paragraph (2) of  
20 subdivision (h). The certificate may be issued for a specified period  
21 of time, and may include reasonable conditions to effectuate the  
22 intent of this section. The Insurance Commissioner may suspend  
23 or revoke a certification, after affording the institution notice and  
24 the opportunity to be heard, if the commissioner finds that an  
25 institution no longer meets the requirement for certification.

26 (2) Accept and evaluate applications for certification from any  
27 community development financial institution on behalf of the  
28 taxpayer and issue certificates to taxpayers in an aggregate amount  
29 that shall not exceed the limit specified in subdivision (c). The  
30 certificate shall include the amount eligible to be made as an  
31 investment that qualifies for the credit and the total amount of the  
32 credit to which the taxpayer is entitled for the year. Applications  
33 for tax credits shall be accepted and evaluated throughout the year.

34 (3) Provide an annual listing to the State Board of Equalization,  
35 in the form or manner agreed upon by the State Board of  
36 Equalization and the Department of Insurance, California  
37 Organized Investment Network, or its successor, of the taxpayers  
38 who were issued certificates, their respective National Association  
39 of Insurance Commissioners company number and employer's tax

1 identification number, the amount of the qualified investment made  
2 by each taxpayer, and the total amount of qualified investments.

3 (4) Include information specified pursuant to subdivision (b) of  
4 Section 12939.1 of the Insurance Code in the report required by  
5 Section 12922 of the Insurance Code.

6 (h) For purposes of this section:

7 (1) “Qualified investment” means an investment that is a deposit  
8 or loan that does not earn interest, or an equity investment, or an  
9 equity-like debt instrument that conforms to the specifications for  
10 these instruments as prescribed by the United States Department  
11 of the Treasury, Community Development Financial Institutions  
12 Fund, or its successor, or, in the absence of that prescription, as  
13 defined by the Insurance Commissioner. The investment must be  
14 equal to or greater than fifty thousand dollars (\$50,000) and made  
15 for a minimum duration of 60 months. During that 60-month  
16 period, the community development financial institution shall have  
17 full use and control of the proceeds of the entire amount of the  
18 investment as well as any earnings on the investment for its  
19 community development purposes. The entire amount of the  
20 investment shall be received by the community development  
21 financial institution before the application for the tax credit is  
22 submitted. The community development financial institution shall  
23 use the proceeds of the investment for a purpose that is consistent  
24 with its community development mission and for the benefit of  
25 economically disadvantaged communities and low-income people  
26 in California.

27 (2) “Community development financial institution” means a  
28 private financial institution located in this state that is certified by  
29 the Department of Insurance, California Organized Investment  
30 Network, or its successor, that, consistent with the legislative  
31 findings, declarations, and intent set forth in Section 12939 of the  
32 Insurance Code, has community development as its primary  
33 mission, and that lends in urban, rural, or reservation-based  
34 communities in this state. A community development financial  
35 institution may include a community development bank, a  
36 community development loan fund, a community development  
37 credit union, a microenterprise fund, a community development  
38 corporation-based lender, or a community development venture  
39 fund.

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

8 (2) If a qualified investment is reduced before the end of the  
9 60th month, but not below fifty thousand dollars (\$50,000), there  
10 shall be added to the “tax,” as defined in Section 28 of Article XIII  
11 of the California Constitution, for the taxable year in which the  
12 reduction occurs, an amount equal to 20 percent of the total  
13 reduction for the year.

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

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

22 (l) This section shall remain in effect only until December 1,  
23 2017, and as of that date is repealed.

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

26 17053.57. (a) For each taxable year beginning on or after  
27 January 1, 1997, and before January 1, 2017, there shall be allowed  
28 as a credit against the amount of “net tax,” as defined in Section  
29 17039, an amount equal to 20 percent of the amount of each  
30 qualified investment made by a taxpayer during the taxable year  
31 into a community development financial institution that is certified  
32 by the Department of Insurance, California Organized Investment  
33 Network, or any successor thereof.

34 (b) (1) Notwithstanding any other provision of this part, a credit  
35 shall not be allowed under this section unless the California  
36 Organized Investment Network, or its successor within the  
37 Department of Insurance, certifies that the investment described  
38 in subdivision (a) qualifies for the credit under this section and  
39 certifies the total amount of the credit allocated to the taxpayer  
40 pursuant to this section.

1 (2) A credit shall not be allowed by this section unless the  
2 applicant and the taxpayer provide satisfactory substantiation to,  
3 and in the form and manner requested by, the Department of  
4 Insurance, California Organized Investment Network, or any  
5 successor thereof, that the investment is a qualified investment, as  
6 defined in paragraph (1) of subdivision (g).

7 (3) (A) The aggregate amount of qualified investments made  
8 by all taxpayers pursuant to this section, Section 12209, and Section  
9 23657 shall not exceed ~~twenty million dollars (\$20,000,000)~~ *fifty*  
10 *million dollars (\$50,000,000)* for each calendar year. However, if  
11 the aggregate amount of qualified investments made in any  
12 calendar year is less than ~~twenty million dollars (\$20,000,000)~~  
13 *fifty million dollars (\$50,000,000)*, the difference may be carried  
14 over to the next year, and any succeeding year during which this  
15 section remains in effect, and added to the aggregate amount  
16 authorized for those years.

17 (B) *The total amount of qualified investments certified by the*  
18 *California Organized Investment Network in any calendar year*  
19 *to any one community development financial institution together*  
20 *with its affiliates, as defined in Section 1215 of the Insurance Code,*  
21 *shall not exceed 30 percent of the annual aggregate amount of*  
22 *qualified investments certified by the California Organized*  
23 *Investment Network. If after October 1, the California Organized*  
24 *Investment Network has determined that the availability of tax*  
25 *credits exceed their demand, then a community development*  
26 *financial institution that has been allocated 30 percent of the*  
27 *annual aggregate amount of qualified investments shall become*  
28 *eligible to apply to be certified for any remaining tax credits in*  
29 *that calendar year.*

30 (C) *Each year, 10 percent of the annual aggregate amount of*  
31 *qualified investments shall be reserved for investment amounts of*  
32 *less than or equal to two hundred thousand dollars (\$200,000). If*  
33 *after October 1, there remains an unallocated portion of the*  
34 *amount reserved for investments of less than or equal to two*  
35 *hundred thousand dollars (\$200,000), then qualified investments*  
36 *in excess of two hundred thousand dollars (\$200,000) may be*  
37 *eligible for that remaining unallocated portion.*

38 (4) If the California Organized Investment Network determines  
39 that total qualified investments will exceed the aggregate amount  
40 of qualified investments made by all taxpayers specified in

1 paragraph (3), priority shall be granted to those applications that  
2 meet ~~any or all~~ *one or both* of the following:

3 (A) Directly benefit low-income persons.

4 ~~(B) Prioritize rental housing, mortgages for community-based  
5 residential programs, and self-help housing ahead of single-family  
6 owned housing.~~

7 ~~(C)~~

8 (B) Represent investments from insurance companies subject  
9 to tax under Section 12201 of this code or under Section 28 of  
10 Article XIII of the California Constitution.

11 *(5) If the application would support housing, priority shall be  
12 given to applications that support affordable rental housing,  
13 housing for veterans, mortgages for community-based residential  
14 programs, and self-help housing ahead of single-family owned  
15 housing.*

16 (c) The community development financial institution shall do  
17 all of the following:

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

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

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

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

1 (5) Submit reports to the department, California Organized  
2 Investment Network, or any successor thereof, as required pursuant  
3 to subdivision (a) of Section 12939.1 of the Insurance Code.

4 (d) The Insurance Commissioner may develop instructions,  
5 procedures, and standards for applications, and for administering  
6 the criteria for the evaluation of applications under this section.  
7 The Insurance Commissioner may, from time to time, issue  
8 regulations to implement the provisions of this section.

9 (e) The California Organized Investment Network may certify  
10 investments for the credit allowed by this section on or before  
11 January 1, ~~2015~~ 2017, but not after that date.

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

15 (1) Accept and evaluate applications for certification from  
16 financial institutions and issue certificates that the applicant is a  
17 community development financial institution qualified to receive  
18 qualified investments. To receive a certificate, an applicant shall  
19 satisfy the Department of Insurance, California Organized  
20 Investment Network, or any successor thereof, that it meets the  
21 specific requirements to be a community development financial  
22 institution for this state program as defined in paragraph (2) of  
23 subdivision (g). The certificate may be issued for a specified period  
24 of time, and may include reasonable conditions to effectuate the  
25 intent of this section. The Insurance Commissioner may suspend  
26 or revoke a certification, after affording the institution notice and  
27 the opportunity to be heard, if the commissioner finds that an  
28 institution no longer meets the requirement for certification.

29 (2) Accept and evaluate applications for certification from any  
30 community development financial institution on behalf of the  
31 taxpayer and issue certificates to taxpayers in an aggregate amount  
32 that shall not exceed the limit specified in subdivision (b). The  
33 certificate shall include the amount eligible to be made as an  
34 investment that qualifies for the credit and the total amount of the  
35 credit to which the taxpayer is entitled for the taxable year.  
36 Applications for tax credits shall be accepted and evaluated  
37 throughout the year.

38 (3) Provide an annual listing to the Franchise Tax Board, in the  
39 form or manner agreed upon by the Franchise Tax Board and the  
40 Department of Insurance, California Organized Investment

1 Network, or its successor, of the taxpayers who were issued  
2 certificates, their respective tax identification numbers, the amount  
3 of the qualified investment made by each taxpayer, and the total  
4 amount of qualified investments.

5 (4) Include information specified pursuant to subdivision (b) of  
6 Section 12939.1 of the Insurance Code in the report required by  
7 Section 12922 of the Insurance Code.

8 (g) For purposes of this section:

9 (1) “Qualified investment” means an investment that is a deposit  
10 or loan that does not earn interest, or an equity investment, or an  
11 equity-like debt instrument that conforms to the specifications for  
12 these instruments as prescribed by the United States Department  
13 of the Treasury, Community Development Financial Institutions  
14 Fund, or its successor, or, in the absence of that prescription, as  
15 defined by the Insurance Commissioner. The investment must be  
16 equal to or greater than fifty thousand dollars (\$50,000) and made  
17 for a minimum duration of 60 months. During that 60-month  
18 period, the community development financial institution shall have  
19 full use and control of the proceeds of the entire amount of the  
20 investment as well as any earnings on the investment for its  
21 community development purposes. The entire amount of the  
22 investment shall be received by the community development  
23 financial institution before the application for the tax credit is  
24 submitted. The community development financial institution shall  
25 use the proceeds of the investment for a purpose that is consistent  
26 with its community development mission and for the benefit of  
27 economically disadvantaged communities and low-income people  
28 in California.

29 (2) “Community development financial institution” means a  
30 private financial institution located in this state that is certified by  
31 the Department of Insurance, California Organized Investment  
32 Network, or its successor, that, consistent with the legislative  
33 findings, declarations, and intent set forth in Section 12939 of the  
34 Insurance Code, has community development as its primary  
35 mission, and that lends in urban, rural, or reservation-based  
36 communities in this state. A community development financial  
37 institution may include a community development bank, a  
38 community development loan fund, a community development  
39 credit union, a microenterprise fund, a community development

1 corporation-based lender, or a community development venture  
2 fund.

3 (h) (1) If a qualified investment is withdrawn before the end  
4 of the 60th month and not reinvested in another community  
5 development financial institution within 60 days, there shall be  
6 added to the “net tax,” as defined in Section 17039, for the taxable  
7 year in which the withdrawal occurs, the entire amount of any  
8 credit previously allowed under this section.

9 (2) If a qualified investment is reduced before the end of the  
10 60th month, but not below fifty thousand dollars (\$50,000), there  
11 shall be added to the “net tax,” as defined in Section 17039, for  
12 the taxable year in which the reduction occurs, an amount equal  
13 to 20 percent of the total reduction for the taxable year.

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

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

22 (k) This section shall remain in effect only until December 1,  
23 2017, and as of that date is repealed.

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

26 23657. (a) For each taxable year beginning on or after January  
27 1, 1997, and before January 1, 2017, there shall be allowed as a  
28 credit against the amount of “tax,” as defined in Section 23036,  
29 an amount equal to 20 percent of the amount of each qualified  
30 investment made by a taxpayer during the taxable year into a  
31 community development financial institution that is certified by  
32 the Department of Insurance, California Organized Investment  
33 Network, or any successor thereof.

34 (b) (1) Notwithstanding any other provision of this part, a credit  
35 shall not be allowed under this section unless the California  
36 Organized Investment Network, or its successor within the  
37 Department of Insurance, certifies that the investment described  
38 in subdivision (a) qualifies for the credit under this section and  
39 certifies the total amount of the credit allocated to the taxpayer  
40 pursuant to this section.

1 (2) A credit shall not be allowed by this section unless the  
2 applicant and the taxpayer provide satisfactory substantiation to,  
3 and in the form and manner requested by, the Department of  
4 Insurance, California Organized Investment Network, or any  
5 successor thereof, that the investment is a qualified investment, as  
6 defined in paragraph (1) of subdivision (g).

7 (3) (A) The aggregate amount of qualified investments made  
8 by all taxpayers pursuant to this section, Section 12209, and Section  
9 17053.57 shall not exceed ~~twenty million dollars (\$20,000,000)~~  
10 *fifty million dollars (\$50,000,000)* for each calendar year. However,  
11 if the aggregate amount of qualified investments made in any  
12 calendar year is less than ~~twenty million dollars (\$20,000,000)~~  
13 *fifty million dollars (\$50,000,000)*, the difference may be carried  
14 over to the next year, and any succeeding year during which this  
15 section remains in effect, and added to the aggregate amount  
16 authorized for those years.

17 (B) *The total amount of qualified investments certified by the*  
18 *California Organized Investment Network in any calendar year*  
19 *to any one community development financial institution together*  
20 *with its affiliates, as defined in Section 1215 of the Insurance Code,*  
21 *shall not exceed 30 percent of the annual aggregate amount of*  
22 *qualified investments certified by the California Organized*  
23 *Investment Network. If after October 1, the California Organized*  
24 *Investment Network has determined that the availability of tax*  
25 *credits exceed their demand, then a community development*  
26 *financial institution that has been allocated 30 percent of the*  
27 *annual aggregate amount of qualified investments shall become*  
28 *eligible to apply to be certified for any remaining tax credits in*  
29 *that calendar year.*

30 (C) *Each year, 10 percent of the annual aggregate amount of*  
31 *qualified investments shall be reserved for investment amounts of*  
32 *less than or equal to two hundred thousand dollars (\$200,000). If*  
33 *after October 1, there remains an unallocated portion of the*  
34 *amount reserved for investments of less than or equal to two*  
35 *hundred thousand dollars (\$200,000), then qualified investments*  
36 *in excess of two hundred thousand dollars (\$200,000) may be*  
37 *eligible for that remaining unallocated portion.*

38 (4) If the California Organized Investment Network determines  
39 that total qualified investments will exceed the aggregate amount  
40 of qualified investments made by all taxpayers specified in

1 paragraph (3), priority shall be granted to those applications that  
 2 meet ~~any or all~~ *one or both* of the following:

3 (A) Directly benefit low-income persons.

4 ~~(B) Prioritize rental housing, mortgages for community-based~~  
 5 ~~residential programs, and self-help housing ahead of single-family~~  
 6 ~~owned housing.~~

7 ~~(C)~~

8 (B) Represent investments from insurance companies subject  
 9 to tax under Section 12201 of this code or under Section 28 of  
 10 Article XIII of the California Constitution.

11 *(5) If the application would support housing, priority shall be*  
 12 *given to applications that support affordable rental housing,*  
 13 *housing for veterans, mortgages for community-based residential*  
 14 *programs, and self-help housing ahead of single-family owned*  
 15 *housing.*

16 (c) The community development financial institution shall do  
 17 all of the following:

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

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

26 (3) Obtain the taxpayer’s identification number, or in the case  
 27 of an “S” corporation, the taxpayer identification numbers of all  
 28 the shareholders for tax administration purposes and provide this  
 29 information to the Department of Insurance, California Organized  
 30 Investment Network, or its successor, with the application required  
 31 in paragraph (2).

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

1 (5) Submit reports to the department, California Organized  
2 Investment Network, or any successor thereof, as required pursuant  
3 to subdivision (a) of Section 12939.1 of the Insurance Code.

4 (d) The California Organized Investment Network may certify  
5 investments for the credit allowed by this section on or before  
6 January 1, ~~2015~~ 2017, but not after that date.

7 (e) The Insurance Commissioner may develop instructions,  
8 procedures, and standards for applications, and for administering  
9 the criteria for the evaluation of applications under this section.  
10 The Insurance Commissioner may, from time to time, issue  
11 regulations to implement the provisions of this section.

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

15 (1) Accept and evaluate applications for certification from  
16 financial institutions and issue certificates that the applicant is a  
17 community development financial institution qualified to receive  
18 qualified investments. To receive a certificate, an applicant shall  
19 satisfy the Department of Insurance, California Organized  
20 Investment Network, or any successor thereof, that it meets the  
21 specific requirements to be a community development financial  
22 institution for this state program as defined in paragraph (2) of  
23 subdivision (g). The certificate may be issued for a specified period  
24 of time, and may include reasonable conditions to effectuate the  
25 intent of this section. The Insurance Commissioner may suspend  
26 or revoke a certification, after affording the institution notice and  
27 the opportunity to be heard, if the commissioner finds that an  
28 institution no longer meets the requirement for certification.

29 (2) Accept and evaluate applications for certification from any  
30 community development financial institution on behalf of the  
31 taxpayer and issue certificates to taxpayers in an aggregate amount  
32 that shall not exceed the limit specified in subdivision (b). The  
33 certificate shall include the amount eligible to be made as an  
34 investment that qualifies for the credit and the total amount of the  
35 credit to which the taxpayer is entitled for the taxable year.  
36 Applications for tax credits shall be accepted and evaluated  
37 throughout the year.

38 (3) Provide an annual listing to the Franchise Tax Board, in the  
39 form or manner agreed upon by the Franchise Tax Board and the  
40 Department of Insurance, California Organized Investment

1 Network, or its successor, of the taxpayers who were issued  
2 certificates, their respective tax identification numbers, the amount  
3 of the qualified investment made by each taxpayer, and the total  
4 amount of qualified investments.

5 (4) Include information specified pursuant to subdivision (b) of  
6 Section 12939.1 of the Insurance Code in the report required by  
7 Section 12922 of the Insurance Code.

8 (g) For purposes of this section:

9 (1) “Qualified investment” means an investment that is a deposit  
10 or loan that does not earn interest, or an equity investment, or an  
11 equity-like debt instrument that conforms to the specifications for  
12 these instruments as prescribed by the United States Department  
13 of the Treasury, Community Development Financial Institutions  
14 Fund, or its successor, or, in the absence of that prescription, as  
15 defined by the Insurance Commissioner. The investment must be  
16 equal to or greater than fifty thousand dollars (\$50,000) and made  
17 for a minimum duration of 60 months. During that 60-month  
18 period, the community development financial institution shall have  
19 full use and control of the proceeds of the entire amount of the  
20 investment as well as any earnings on the investment for its  
21 community development purposes. The entire amount of the  
22 investment shall be received by the community development  
23 financial institution before the application for the tax credit is  
24 submitted. The community development financial institution shall  
25 use the proceeds of the investment for a purpose that is consistent  
26 with its community development mission and for the benefit of  
27 economically disadvantaged communities and low-income people  
28 in California.

29 (2) “Community development financial institution” means a  
30 private financial institution located in this state that is certified by  
31 the Department of Insurance, California Organized Investment  
32 Network, or its successor, that, consistent with the legislative  
33 findings, declarations, and intent set forth in Section 12939 of the  
34 Insurance Code, has community development as its primary  
35 mission, and that lends in urban, rural, or reservation-based  
36 communities in this state. A community development financial  
37 institution may include a community development bank, a  
38 community development loan fund, a community development  
39 credit union, a microenterprise fund, a community development

1 corporation-based lender, or a community development venture  
2 fund.

3 (h) (1) If a qualified investment is withdrawn before the end  
4 of the 60th month and not reinvested in another community  
5 development financial institution within 60 days, there shall be  
6 added to the “tax,” as defined in Section 23036, for the taxable  
7 year in which the withdrawal occurs, the entire amount of any  
8 credit previously allowed under this section.

9 (2) If a qualified investment is reduced before the end of the  
10 60th month, but not below fifty thousand dollars (\$50,000), there  
11 shall be added to the “tax,” as defined in Section 23036, for the  
12 taxable year in which the reduction occurs, an amount equal to 20  
13 percent of the total reduction for the taxable year.

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

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

22 (k) This section shall remain in effect only until December 1,  
23 2017, and as of that date is repealed.

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

O