

AMENDED IN ASSEMBLY APRIL 17, 2013

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 \$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,

1 and in the form and manner requested by, the Department of
2 Insurance, California Organized Investment Network, or any
3 successor thereof, that the investment is a qualified investment as
4 defined in paragraph (1) of subdivision (h).

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

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

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

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

40 (A) Directly benefit low-income persons.

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

4 (5) ~~If the application would support housing, priority~~ *Priority*
5 *among housing applications* shall be given to applications that
6 support affordable rental housing, housing for veterans, mortgages
7 for community-based residential programs, and self-help housing
8 ahead of single-family owned housing.

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

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

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

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

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

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

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

38 (f) The Insurance Commissioner may develop instructions,
39 procedures, and standards for applications, and for administering
40 the criteria for the evaluation of applications under this section.

1 The Insurance Commissioner may, from time to time, issue
2 regulations to implement the provisions of this section.

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

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

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

28 (3) Provide an annual listing to the State Board of Equalization,
29 in the form or 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 taxpayers
32 who were issued certificates, their respective National Association
33 of Insurance Commissioners company number and employer's tax
34 identification number, the amount of the qualified investment made
35 by each taxpayer, and the total amount of qualified investments.

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

39 (h) For purposes of this section:

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

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

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

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

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

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

15 (l) This section shall remain in effect only until December 1,
16 2017, and as of that date is repealed.

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

19 17053.57. (a) For each taxable year beginning on or after
20 January 1, 1997, and before January 1, 2017, there shall be allowed
21 as a credit against the amount of “net tax,” as defined in Section
22 17039, an amount equal to 20 percent of the amount of each
23 qualified investment made by a taxpayer during the taxable year
24 into a community development financial institution that is certified
25 by the Department of Insurance, California Organized Investment
26 Network, or any successor thereof.

27 (b) (1) Notwithstanding any other provision of this part, a credit
28 shall not be allowed under this section unless the California
29 Organized Investment Network, or its successor within the
30 Department of Insurance, certifies that the investment described
31 in subdivision (a) qualifies for the credit under this section and
32 certifies the total amount of the credit allocated to the taxpayer
33 pursuant to this section.

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

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

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

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

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

36 (A) Directly benefit low-income persons.

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

1 (5) ~~If the application would support housing, priority~~ *Priority*
2 *among housing applications* shall be given to applications that
3 support affordable rental housing, housing for veterans, mortgages
4 for community-based residential programs, and self-help housing
5 ahead of single-family owned housing.

6 (c) The community development financial institution shall do
7 all of the following:

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

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

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

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

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

32 (d) The Insurance Commissioner may develop instructions,
33 procedures, and standards for applications, and for administering
34 the criteria for the evaluation of applications under this section.
35 The Insurance Commissioner may, from time to time, issue
36 regulations to implement the provisions of this section.

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

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

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

18 (2) Accept and evaluate applications for certification from any
19 community development financial institution on behalf of the
20 taxpayer and issue certificates to taxpayers in an aggregate amount
21 that shall not exceed the limit specified in subdivision (b). The
22 certificate shall include the amount eligible to be made as an
23 investment that qualifies for the credit and the total amount of the
24 credit to which the taxpayer is entitled for the taxable year.
25 Applications for tax credits shall be accepted and evaluated
26 throughout the year.

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

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

37 (g) For purposes of this section:

38 (1) “Qualified investment” means an investment that is a deposit
39 or loan that does not earn interest, or an equity investment, or an
40 equity-like debt instrument that conforms to the specifications for

1 these instruments as prescribed by the United States Department
2 of the Treasury, Community Development Financial Institutions
3 Fund, or its successor, or, in the absence of that prescription, as
4 defined by the Insurance Commissioner. The investment must be
5 equal to or greater than fifty thousand dollars (\$50,000) and made
6 for a minimum duration of 60 months. During that 60-month
7 period, the community development financial institution shall have
8 full use and control of the proceeds of the entire amount of the
9 investment as well as any earnings on the investment for its
10 community development purposes. The entire amount of the
11 investment shall be received by the community development
12 financial institution before the application for the tax credit is
13 submitted. The community development financial institution shall
14 use the proceeds of the investment for a purpose that is consistent
15 with its community development mission and for the benefit of
16 economically disadvantaged communities and low-income people
17 in California.

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

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

37 (2) If a qualified investment is reduced before the end of the
38 60th month, but not below fifty thousand dollars (\$50,000), there
39 shall be added to the “net tax,” as defined in Section 17039, for

1 the taxable year in which the reduction occurs, an amount equal
2 to 20 percent of the total reduction for the taxable year.

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

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

11 (k) This section shall remain in effect only until December 1,
12 2017, and as of that date is repealed.

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

15 23657. (a) For each taxable year beginning on or after January
16 1, 1997, and before January 1, 2017, there shall be allowed as a
17 credit against the amount of “tax,” as defined in Section 23036,
18 an amount equal to 20 percent of the amount of each qualified
19 investment made by a taxpayer during the taxable year into a
20 community development financial institution that is certified by
21 the Department of Insurance, California Organized Investment
22 Network, or any successor thereof.

23 (b) (1) Notwithstanding any other provision of this part, a credit
24 shall not be allowed under this section unless the California
25 Organized Investment Network, or its successor within the
26 Department of Insurance, certifies that the investment described
27 in subdivision (a) 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 (2) A credit shall not be allowed by this section unless the
31 applicant and the taxpayer provide satisfactory substantiation to,
32 and in the form and manner requested by, the Department of
33 Insurance, California Organized Investment Network, or any
34 successor thereof, that the investment is a qualified investment, as
35 defined in paragraph (1) of subdivision (g).

36 (3) (A) The aggregate amount of qualified investments made
37 by all taxpayers pursuant to this section, Section 12209, and Section
38 17053.57 shall not exceed fifty million dollars (\$50,000,000) for
39 each calendar year. However, if the aggregate amount of qualified
40 investments made in any calendar year is less than fifty million

1 dollars (\$50,000,000), the difference may be carried over to the
2 next year, and any succeeding year during which this section
3 remains in effect, and added to the aggregate amount authorized
4 for those years.

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

18 (C) Each year, 10 percent of the annual aggregate amount of
19 qualified investments shall be reserved for investment amounts of
20 less than or equal to two hundred thousand dollars (\$200,000). If
21 after October 1, there remains an unallocated portion of the amount
22 reserved for investments of less than or equal to two hundred
23 thousand dollars (\$200,000), then qualified investments in excess
24 of two hundred thousand dollars (\$200,000) may be eligible for
25 that remaining unallocated portion.

26 (4) If the California Organized Investment Network determines
27 that total qualified investments will exceed the aggregate amount
28 of qualified investments made by all taxpayers specified in
29 paragraph (3), priority shall be granted to those applications that
30 meet one or both of the following:

31 (A) Directly benefit low-income persons.

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

35 (5) ~~If the application would support housing, priority~~ *Priority*
36 *among housing applications* shall be given to applications that
37 support affordable rental housing, housing for veterans, mortgages
38 for community-based residential programs, and self-help housing
39 ahead of single-family owned housing.

- 1 (c) The community development financial institution shall do
2 all of the following:
- 3 (1) Apply to the Department of Insurance, California Organized
4 Investment Network, or its successor, for certification of its status
5 as a community development financial institution.
- 6 (2) Apply to the Department of Insurance, California Organized
7 Investment Network, or its successor, on behalf of the taxpayer,
8 for certification of the amount of the investment and the credit
9 amount allocated to the taxpayer, obtain the certification, and retain
10 a copy of the certification.
- 11 (3) Obtain the taxpayer's identification number, or in the case
12 of an "S" corporation, the taxpayer identification numbers of all
13 the shareholders for tax administration purposes and provide this
14 information to the Department of Insurance, California Organized
15 Investment Network, or its successor, with the application required
16 in paragraph (2).
- 17 (4) Provide an annual listing to the Franchise Tax Board, in the
18 form and manner agreed upon by the Franchise Tax Board and the
19 Department of Insurance, California Organized Investment
20 Network, or its successor, of the names and taxpayer identification
21 numbers of any taxpayer who makes any withdrawal or partial
22 withdrawal of a qualified investment before the expiration of 60
23 months from the date of the qualified investment.
- 24 (5) Submit reports to the department, California Organized
25 Investment Network, or any successor thereof, as required pursuant
26 to subdivision (a) of Section 12939.1 of the Insurance Code.
- 27 (d) The California Organized Investment Network may certify
28 investments for the credit allowed by this section on or before
29 January 1, 2017, but not after that date.
- 30 (e) The Insurance Commissioner may develop instructions,
31 procedures, and standards for applications, and for administering
32 the criteria for the evaluation of applications under this section.
33 The Insurance Commissioner may, from time to time, issue
34 regulations to implement the provisions of this section.
- 35 (f) The Department of Insurance, California Organized
36 Investment Network, or any successor thereof, shall do all of the
37 following:
- 38 (1) Accept and evaluate applications for certification from
39 financial institutions and issue certificates that the applicant is a
40 community development financial institution qualified to receive

1 qualified investments. To receive a certificate, an applicant shall
2 satisfy the Department of Insurance, California Organized
3 Investment Network, or any successor thereof, that it meets the
4 specific requirements to be a community development financial
5 institution for this state program as defined in paragraph (2) of
6 subdivision (g). The certificate may be issued for a specified period
7 of time, and may include reasonable conditions to effectuate the
8 intent of this section. The Insurance Commissioner may suspend
9 or revoke a certification, after affording the institution notice and
10 the opportunity to be heard, if the commissioner finds that an
11 institution no longer meets the requirement for certification.

12 (2) Accept and evaluate applications for certification from any
13 community development financial institution on behalf of the
14 taxpayer and issue certificates to taxpayers in an aggregate amount
15 that shall not exceed the limit specified in subdivision (b). The
16 certificate shall include the amount eligible to be made as an
17 investment that qualifies for the credit and the total amount of the
18 credit to which the taxpayer is entitled for the taxable year.
19 Applications for tax credits shall be accepted and evaluated
20 throughout the year.

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

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

31 (g) For purposes of this section:

32 (1) “Qualified investment” means an investment that is a deposit
33 or loan that does not earn interest, or an equity investment, or an
34 equity-like debt instrument that conforms to the specifications for
35 these instruments as prescribed by the United States Department
36 of the Treasury, Community Development Financial Institutions
37 Fund, or its successor, or, in the absence of that prescription, as
38 defined by the Insurance Commissioner. The investment must be
39 equal to or greater than fifty thousand dollars (\$50,000) and made
40 for a minimum duration of 60 months. During that 60-month

1 period, the community development financial institution shall have
2 full use and control of the proceeds of the entire amount of the
3 investment as well as any earnings on the investment for its
4 community development purposes. The entire amount of the
5 investment shall be received by the community development
6 financial institution before the application for the tax credit is
7 submitted. The community development financial institution shall
8 use the proceeds of the investment for a purpose that is consistent
9 with its community development mission and for the benefit of
10 economically disadvantaged communities and low-income people
11 in California.

12 (2) “Community development financial institution” means a
13 private financial institution located in this state that is certified by
14 the Department of Insurance, California Organized Investment
15 Network, or its successor, that, consistent with the legislative
16 findings, declarations, and intent set forth in Section 12939 of the
17 Insurance Code, has community development as its primary
18 mission, and that lends in urban, rural, or reservation-based
19 communities in this state. A community development financial
20 institution may include a community development bank, a
21 community development loan fund, a community development
22 credit union, a microenterprise fund, a community development
23 corporation-based lender, or a community development venture
24 fund.

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

31 (2) If a qualified investment is reduced before the end of the
32 60th month, but not below fifty thousand dollars (\$50,000), there
33 shall be added to the “tax,” as defined in Section 23036, for the
34 taxable year in which the reduction occurs, an amount equal to 20
35 percent of the total reduction for the taxable year.

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

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

5 (k) This section shall remain in effect only until December 1,
6 2017, and as of that date is repealed.

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

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