

AMENDED IN SENATE SEPTEMBER 3, 2013

AMENDED IN SENATE AUGUST 21, 2013

AMENDED IN ASSEMBLY APRIL 17, 2013

AMENDED IN ASSEMBLY MARCH 4, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 32**

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

December 3, 2012

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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. Existing law requires a community development financial institution to apply to the California Organized Investment Network on behalf of the taxpayer for certification of the amount of the investment and the credit amount allocated to the taxpayer.

The bill would increase the \$10,000,000 limitation on the aggregate amount of qualified investments to \$50,000,000. This bill would require a community development financial institution to provide in the application a detailed description of the intended use of the investment funds, as described, and to provide specified information about the taxpayer. This bill would require the California Organized Investment Network, when accepting and evaluating applications for certification from any community development financial institution on behalf of the taxpayer and issuing certificates, to grant highest priority to those applications where the intended use of the investments has the greatest aggregate benefit for low-to-moderate income areas or households or rural areas or households. This bill would require the Insurance Commissioner to establish tax credit issuance cycles throughout the year as necessary in order to issue tax credit certificates to those applications granted the highest priority. 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.

This bill would require, on or before June 30, 2016, the Legislative Analyst's Office to submit a report to the Legislature on the effects of the tax credits allowed, with a focus on employment in low-to-moderate income and rural areas, and on the benefits of these tax credits to low-to-moderate income and rural persons.

*Existing law authorizes the Insurance Commissioner to issue regulations to implement the credit.*

*This bill would instead authorize the Insurance Commissioner to adopt, amend, or repeal regulations to implement the credit, and would deem the initial adoption of the regulations to be emergency regulations, as specified.*

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 include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of  $\frac{2}{3}$  of the membership of each house of the Legislature.

This bill would take effect immediately as a tax levy.

Vote:  $\frac{2}{3}$ . 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  
28 successor thereof, that the investment is a qualified investment as  
29 defined in paragraph (1) of subdivision (h).

1 (3) (A) The aggregate amount of qualified investments made  
2 by all taxpayers pursuant to this section, Section 17053.57, and  
3 Section 23657 shall not exceed fifty million dollars (\$50,000,000)  
4 for each calendar year. However, if the aggregate amount of  
5 qualified investments made in any calendar year is less than fifty  
6 million dollars (\$50,000,000), the difference may be carried over  
7 to the 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) Priority among housing applications shall be given to  
32 applications that support affordable rental housing, housing for  
33 veterans, mortgages for community-based residential programs,  
34 and self-help housing ahead of single-family owned housing.

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

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

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

6 (B) Provide in the application a detailed description of the  
7 intended use of the investment funds including, but not limited to,  
8 the following:

9 (i) All of the programs, projects, and services that would be  
10 funded.

11 (ii) The percentage of the intended use of the investment funds  
12 that would directly benefit low-to-moderate income households.

13 (iii) The percentage of the intended use of the investment funds  
14 that would directly benefit rural areas.

15 (iv) The percentage of the intended use of the investment funds  
16 that is a green investment as defined in Section 926.1 of the  
17 Insurance Code.

18 (3) (A) Provide in the application required in paragraph (2) the  
19 following information to the Department of Insurance, California  
20 Organized Investment Network, or its successor:

21 (i) Name of the taxpayer.

22 (ii) Postal address of the taxpayer, or residential address of the  
23 taxpayer if the taxpayer is an individual.

24 (iii) Phone number of the taxpayer.

25 (iv) Email address of the taxpayer.

26 (v) The taxpayer's California company identification number  
27 for tax administration purposes.

28 (B) The information provided in subparagraph (A) shall be used  
29 only for internal purposes by the Department of Insurance,  
30 California Organized Investment Network, or its successor, and  
31 any public disclosure of that information shall be limited to the  
32 name of the taxpayer only.

33 (4) Provide an annual listing to the State Board of Equalization,  
34 in the form and manner agreed upon by the State Board of  
35 Equalization and the Department of Insurance, California  
36 Organized Investment Network, or its successor, of the names and  
37 taxpayer's California company identification numbers of any  
38 taxpayer who makes any withdrawal or partial withdrawal of a  
39 qualified investment before the expiration of 60 months from the  
40 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 (e) The California Organized Investment Network may certify  
5 investments for the credit allowed by this section on or before  
6 January 1, 2017, but not after that date.

7 (f) (1) 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~~ *adopt,*  
11 *amend, or repeal* regulations to implement the provisions of this  
12 section.

13 (2) *The initial adoption of the regulations implementing this*  
14 *section shall be deemed to be an emergency and necessary in order*  
15 *to address a situation calling for immediate action to avoid serious*  
16 *harm to the public peace, health, safety, or general welfare.*

17 (3) *Notwithstanding Chapter 3.5 (commencing with Section*  
18 *11340) of Part 1 of Division 3 of Title 2 of the Government Code,*  
19 *any emergency regulation adopted or amended by the Insurance*  
20 *Commissioner pursuant to this section shall remain in effect until*  
21 *amended or repealed by the department.*

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

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

39 (2) Accept and evaluate applications for certification from any  
40 community development financial institution on behalf of the

1 taxpayer and issue certificates to taxpayers in an aggregate amount  
2 that shall not exceed the limit specified in subdivision (c), with  
3 highest priority granted to those applications where the intended  
4 use of the investments has the greatest aggregate benefit for  
5 low-to-moderate income areas or households or rural areas or  
6 households. The certificate shall include the amount eligible to be  
7 made as an investment that qualifies for the credit and the total  
8 amount of the credit to which the taxpayer is entitled for the year.  
9 Applications for tax credits shall be accepted and evaluated  
10 throughout the year. The Insurance Commissioner shall establish  
11 tax credit issuance cycles throughout the year as necessary in order  
12 to issue tax credit certificates to those applications granted the  
13 highest priority.

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

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

25 (h) For purposes of this section:

26 (1) "Qualified investment" means an investment that is a deposit  
27 or loan that does not earn interest, or an equity investment, or an  
28 equity-like debt instrument that conforms to the specifications for  
29 these instruments as prescribed by the United States Department  
30 of the Treasury, Community Development Financial Institutions  
31 Fund, or its successor, or, in the absence of that prescription, as  
32 defined by the Insurance Commissioner. The investment must be  
33 equal to or greater than fifty thousand dollars (\$50,000) and made  
34 for a minimum duration of 60 months. During that 60-month  
35 period, the community development financial institution shall have  
36 full use and control of the proceeds of the entire amount of the  
37 investment as well as any earnings on the investment for its  
38 community development purposes. The entire amount of the  
39 investment shall be received by the community development  
40 financial institution before the application for the tax credit is

1 submitted. The community development financial institution shall  
2 use the proceeds of the investment for a purpose that is consistent  
3 with its community development mission and for the benefit of  
4 economically disadvantaged communities and low-income people  
5 in California.

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

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

26 (2) If a qualified investment is reduced before the end of the  
27 60th month, but not below fifty thousand dollars (\$50,000), there  
28 shall be added to the “tax,” as defined in Section 28 of Article XIII  
29 of the California Constitution, for the taxable year in which the  
30 reduction occurs, an amount equal to 20 percent of the total  
31 reduction for the year.

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

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



1 (l) On or before June 30, 2016, the Legislative Analyst’s Office  
2 shall submit a report to the Legislature, in compliance with Section  
3 9795 of the Government Code, on the effects of the tax credits  
4 allowed under this section, Section 17053.57, and Section 23657,  
5 with a focus on employment in low-to-moderate income and rural  
6 areas, and on the benefits of these tax credits to low-to-moderate  
7 income and rural persons.

8 (m) This section shall remain in effect only until December 1,  
9 2017, and as of that date is repealed.

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

12 17053.57. (a) For each taxable year beginning on or after  
13 January 1, 1997, and before January 1, 2017, there shall be allowed  
14 as a credit against the amount of “net tax,” as defined in Section  
15 17039, an amount equal to 20 percent of the amount of each  
16 qualified investment made by a taxpayer during the taxable year  
17 into a community development financial institution that is certified  
18 by the Department of Insurance, California Organized Investment  
19 Network, or any successor thereof.

20 (b) (1) Notwithstanding any other provision of this part, a credit  
21 shall not be allowed under this section unless the California  
22 Organized Investment Network, or its successor within the  
23 Department of Insurance, certifies that the investment described  
24 in subdivision (a) qualifies for the credit under this section and  
25 certifies the total amount of the credit allocated to the taxpayer  
26 pursuant to this section.

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

33 (3) (A) The aggregate amount of qualified investments made  
34 by all taxpayers pursuant to this section, Section 12209, and Section  
35 23657 shall not exceed fifty million dollars (\$50,000,000) for each  
36 calendar year. However, if the aggregate amount of qualified  
37 investments made in any calendar year is less than fifty million  
38 dollars (\$50,000,000), the difference may be carried over to the  
39 next year, and any succeeding year during which this section

1 remains in effect, and added to the aggregate amount authorized  
2 for those years.

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

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

24 (4) Priority among housing applications shall be given to  
25 applications that support affordable rental housing, housing for  
26 veterans, mortgages for community-based residential programs,  
27 and self-help housing ahead of single-family owned housing.

28 (c) The community development financial institution shall do  
29 all of the following:

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

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

38 (B) Provide in the application a detailed description of the  
39 intended use of the investment funds including, but not limited to,  
40 the following:

1 (i) All of the programs, projects, and services that would be  
2 funded.

3 (ii) The percentage of the intended use of the investment funds  
4 that would directly benefit low-to-moderate income households.

5 (iii) The percentage of the intended use of the investment funds  
6 that would directly benefit rural areas.

7 (iv) The percentage of the intended use of the investment funds  
8 that is a green investment as defined in Section 926.1 of the  
9 Insurance Code.

10 (3) (A) Provide in the application required in paragraph (2) the  
11 following information to the Department of Insurance, California  
12 Organized Investment Network, or its successor:

13 (i) Name of the taxpayer.

14 (ii) Postal address of the taxpayer, or residential address of the  
15 taxpayer if the taxpayer is an individual.

16 (iii) Phone number of the taxpayer.

17 (iv) Email address of the taxpayer.

18 (v) The taxpayer's identification number, or in the case of a  
19 partnership, the taxpayer identification numbers of all the partners  
20 for tax administration purposes.

21 (B) The information provided in subparagraph (A) shall be used  
22 only for internal purposes by the Department of Insurance,  
23 California Organized Investment Network, or its successor, and  
24 any Network, or its successor shall limit all public disclosure of  
25 that information shall be limited to the name of the taxpayer only.

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

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

36 (d) (1) The Insurance Commissioner may develop instructions,  
37 procedures, and standards for applications, and for administering  
38 the criteria for the evaluation of applications under this section.  
39 The Insurance Commissioner may, from time to time, ~~issue~~ *adopt*,

1 *amend, or repeal* regulations to implement the provisions of this  
2 section.

3 (2) *The initial adoption of the regulations implementing this*  
4 *section shall be deemed to be an emergency and necessary in order*  
5 *to address a situation calling for immediate action to avoid serious*  
6 *harm to the public peace, health, safety, or general welfare.*

7 (3) *Notwithstanding Chapter 3.5 (commencing with Section*  
8 *11340) of Part 1 of Division 3 of Title 2 of the Government Code,*  
9 *any emergency regulation adopted or amended by the Insurance*  
10 *Commissioner pursuant to this section shall remain in effect until*  
11 *amended or repealed by the department.*

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

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

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

32 (2) Accept and evaluate applications for certification from any  
33 community development financial institution on behalf of the  
34 taxpayer and issue certificates to taxpayers in an aggregate amount  
35 that shall not exceed the limit specified in subdivision (b), with  
36 highest priority granted to those applications where the intended  
37 use of the investments has the greatest aggregate benefit for  
38 low-to-moderate income areas or households or rural areas or  
39 households. The certificate shall include the amount eligible to be  
40 made as an investment that qualifies for the credit and the total

1 amount of the credit to which the taxpayer is entitled for the taxable  
2 year. Applications for tax credits shall be accepted and evaluated  
3 throughout the year. The Insurance Commissioner shall establish  
4 tax credit issuance cycles throughout the year as necessary in order  
5 to issue tax credit certificates to those applications granted the  
6 highest priority.

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

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

17 (g) For purposes of this section:

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

38 (2) “Community development financial institution” means a  
39 private financial institution located in this state that is certified by  
40 the Department of Insurance, California Organized Investment

1 Network, or its successor, that, consistent with the legislative  
2 findings, declarations, and intent set forth in Section 12939 of the  
3 Insurance Code, has community development as its primary  
4 mission, and that lends in urban, rural, or reservation-based  
5 communities in this state. A community development financial  
6 institution may include a community development bank, a  
7 community development loan fund, a community development  
8 credit union, a microenterprise fund, a community development  
9 corporation-based lender, or a community development venture  
10 fund.

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

17 (2) If a qualified investment is reduced before the end of the  
18 60th month, but not below fifty thousand dollars (\$50,000), there  
19 shall be added to the “net tax,” as defined in Section 17039, for  
20 the taxable year in which the reduction occurs, an amount equal  
21 to 20 percent of the total reduction for the taxable year.

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

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

30 (k) On or before June 30, 2016, the Legislative Analyst’s Office  
31 shall submit a report to the Legislature, in compliance with Section  
32 9795 of the Government Code, on the effects of the tax credits  
33 allowed under this section, Section 12209, and Section 23657,  
34 with a focus on employment in low-to-moderate income and rural  
35 areas, and on the benefits of these tax credits to low-to-moderate  
36 income and rural persons.

37 (l) This section shall remain in effect only until December 1,  
38 2017, and as of that date is repealed.

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

1 23657. (a) For each taxable year beginning on or after January  
2 1, 1997, and before January 1, 2017, there shall be allowed as a  
3 credit against the amount of “tax,” as defined in Section 23036,  
4 an amount equal to 20 percent of the amount of each qualified  
5 investment made by a taxpayer during the taxable year into a  
6 community development financial institution that is certified by  
7 the Department of Insurance, California Organized Investment  
8 Network, or any successor thereof.

9 (b) (1) Notwithstanding any other provision of this part, a credit  
10 shall not be allowed under this section unless the California  
11 Organized Investment Network, or its successor within the  
12 Department of Insurance, certifies that the investment described  
13 in subdivision (a) qualifies for the credit under this section and  
14 certifies the total amount of the credit allocated to the taxpayer  
15 pursuant to this section.

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

22 (3) (A) The aggregate amount of qualified investments made  
23 by all taxpayers pursuant to this section, Section 12209, and Section  
24 17053.57 shall not exceed fifty million dollars (\$50,000,000) for  
25 each calendar year. However, if the aggregate amount of qualified  
26 investments made in any calendar year is less than fifty million  
27 dollars (\$50,000,000), the difference may be carried over to the  
28 next year, and any succeeding year during which this section  
29 remains in effect, and added to the aggregate amount authorized  
30 for those years.

31 (B) The total amount of qualified investments certified by the  
32 California Organized Investment Network in any calendar year to  
33 any one community development financial institution together  
34 with its affiliates, as defined in Section 1215 of the Insurance Code,  
35 shall not exceed 30 percent of the annual aggregate amount of  
36 qualified investments certified by the California Organized  
37 Investment Network. If, after October 1, the California Organized  
38 Investment Network has determined that the availability of tax  
39 credits exceed their demand, then a community development  
40 financial institution that has been allocated 30 percent of the annual

1 aggregate amount of qualified investments shall become eligible  
2 to apply to be certified for any remaining tax credits in that calendar  
3 year.

4 (C) Each year, 10 percent of the annual aggregate amount of  
5 qualified investments shall be reserved for investment amounts of  
6 less than or equal to two hundred thousand dollars (\$200,000). If,  
7 after October 1, there remains an unallocated portion of the amount  
8 reserved for investments of less than or equal to two hundred  
9 thousand dollars (\$200,000), then qualified investments in excess  
10 of two hundred thousand dollars (\$200,000) may be eligible for  
11 that remaining unallocated portion.

12 (4) Priority among housing applications shall be given to  
13 applications that support affordable rental housing, housing for  
14 veterans, mortgages for community-based residential programs,  
15 and self-help housing ahead of single-family owned 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) (A) Apply to the Department of Insurance, California  
22 Organized Investment Network, or its successor, on behalf of the  
23 taxpayer, for certification of the amount of the investment and the  
24 credit amount allocated to the taxpayer, obtain the certification,  
25 and retain a copy of the certification.

26 (B) Provide in the application a detailed description of the  
27 intended use of the investment funds including, but not limited to,  
28 the following:

29 (i) All of the programs, projects, and services that would be  
30 funded.

31 (ii) The percentage of the intended use of the investment funds  
32 that would directly benefit low-to-moderate income households.

33 (iii) The percentage of the intended use of the investment funds  
34 that would directly benefit rural areas.

35 (iv) The percentage of the intended use of the investment funds  
36 that is a green investment as defined in Section 926.1 of the  
37 Insurance Code.

38 (3) (A) Provide in the application required in paragraph (2) the  
39 following information to the Department of Insurance, California  
40 Organized Investment Network, or its successor:



- 1 (i) Name of the taxpayer.
- 2 (ii) Postal address of the taxpayer, or residential address of the
- 3 taxpayer if the taxpayer is an individual.
- 4 (iii) Phone number of the taxpayer.
- 5 (iv) E-mail address of the taxpayer.
- 6 (v) The taxpayer's California company identification number
- 7 for tax administration purposes, or in the case of an "S"
- 8 corporation, the taxpayer identification numbers of all the
- 9 shareholders for tax administration purposes.

10 (B) The information provided in subparagraph (A) shall be used  
11 only for internal purposes by the Department of Insurance,  
12 California Organized Investment Network, or its successor, and  
13 any public disclosure of that information shall be limited to the  
14 name of the taxpayer only.

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

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

25 (d) The California Organized Investment Network may certify  
26 investments for the credit allowed by this section on or before  
27 January 1, 2017, but not after that date.

28 (e) (1) The Insurance Commissioner may develop instructions,  
29 procedures, and standards for applications, and for administering  
30 the criteria for the evaluation of applications under this section.  
31 The Insurance Commissioner may, from time to time, ~~issue~~ *adopt,*  
32 *amend, or repeal* regulations to implement the provisions of this  
33 section.

34 (2) *The initial adoption of the regulations implementing this*  
35 *section shall be deemed to be an emergency and necessary in order*  
36 *to address a situation calling for immediate action to avoid serious*  
37 *harm to the public peace, health, safety, or general welfare.*

38 (3) *Notwithstanding Chapter 3.5 (commencing with Section*  
39 *11340) of Part 1 of Division 3 of Title 2 of the Government Code,*  
40 *any emergency regulation adopted or amended by the Insurance*

1 *Commissioner pursuant to this section shall remain in effect until*  
2 *amended or repealed by the department.*

3 (f) 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 (g). 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 (b), with  
24 highest priority granted to those applications where the intended  
25 use of the investments has the greatest aggregate benefit for  
26 low-to-moderate income areas or households or rural areas or  
27 households. The certificate shall include the amount eligible to be  
28 made as an investment that qualifies for the credit and the total  
29 amount of the credit to which the taxpayer is entitled for the taxable  
30 year. Applications for tax credits shall be accepted and evaluated  
31 throughout the year. The Insurance Commissioner shall establish  
32 tax credit issuance cycles throughout the year as necessary in order  
33 to issue tax credit certificates to those applications granted the  
34 highest priority.

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

1 of the qualified investment made by each taxpayer, and the total  
2 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 (g) 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 (h) (1) If a qualified investment is withdrawn before the end  
2 of 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 23036, for the taxable  
5 year in which the withdrawal occurs, the entire amount of any  
6 credit previously allowed under this section.

7 (2) If a qualified investment is reduced before the end of the  
8 60th month, but not below fifty thousand dollars (\$50,000), there  
9 shall be added to the “tax,” as defined in Section 23036, for the  
10 taxable year in which the reduction occurs, an amount equal to 20  
11 percent of the total reduction for the taxable year.

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

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

20 (k) On or before June 30, 2016, the Legislative Analyst’s Office  
21 shall submit a report to the Legislature, in compliance with Section  
22 9795 of the Government Code, on the effects of the tax credits  
23 allowed under this section, Section 12209, and Section 17053.57,  
24 with a focus on employment in low-to-moderate income and rural  
25 areas, and on the benefits of these tax credits to low-to-moderate  
26 income and rural persons.

27 (l) This section shall remain in effect only until December 1,  
28 2017, and as of that date is repealed.

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