

Assembly Bill No. 32

CHAPTER 608

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.

[Approved by Governor October 7, 2013. Filed with
Secretary of State October 7, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 32, 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.

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

SECTION 1. Section 12209 of the Revenue and Taxation Code is amended to read:

12209. (a) For each year beginning on or after January 1, 1999, and before January 1, 2017, there shall be allowed as a credit against the amount of tax, as defined in Section 28 of Article XIII of the California Constitution, an amount equal to 20 percent of the amount of each qualified investment made by a taxpayer during the taxable year into a community development financial institution that is certified by the Department of Insurance, California Organized Investment Network, or any successor thereof.

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

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

(2) A credit shall not be allowed by this section unless the applicant and the taxpayer provide satisfactory substantiation to, and in the form and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Name of the taxpayer.

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

(iii) Phone number of the taxpayer.

(iv) Email address of the taxpayer.

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

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

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

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

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

(f) (1) The Insurance Commissioner may develop instructions, procedures, and standards for applications, and for administering the criteria for the evaluation of applications under this section. The Insurance Commissioner may, from time to time, adopt, amend, or repeal regulations to implement the provisions of this section.

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

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

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

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

(2) Accept and evaluate applications for certification from any community development financial institution on behalf of the taxpayer and issue certificates to taxpayers in an aggregate amount that shall not exceed the limit specified in subdivision (c), with highest priority granted 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. The certificate shall include the amount eligible to be made as an investment that qualifies for the credit and the total amount of the credit to which the taxpayer is entitled for the year. Applications for tax credits shall be accepted and evaluated throughout the year. The Insurance Commissioner shall establish tax credit issuance cycles throughout the year as necessary in order to issue tax credit certificates to those applications granted the highest priority.

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

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

(h) For purposes of this section:

(1) "Qualified investment" means an investment that is a deposit or loan that does not earn interest, or an equity investment, or an equity-like debt instrument that conforms to the specifications for these instruments as prescribed by the United States Department of the Treasury, Community Development Financial Institutions Fund, or its successor, or, in the absence of that prescription, as defined by the Insurance Commissioner. The investment must be equal to or greater than fifty thousand dollars (\$50,000) and made for a minimum duration of 60 months. During that 60-month period, the community development financial institution shall have full use and control of the proceeds of the entire amount of the investment as well

as any earnings on the investment for its community development purposes. The entire amount of the investment shall be received by the community development financial institution before the application for the tax credit is submitted. The community development financial institution shall use the proceeds of the investment for a purpose that is consistent with its community development mission and for the benefit of economically disadvantaged communities and low-income people in California.

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

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

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

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

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

(l) On or before June 30, 2016, the Legislative Analyst’s Office shall submit a report to the Legislature, in compliance with Section 9795 of the Government Code, on the effects of the tax credits allowed under this section, Section 17053.57, and Section 23657, 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.

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

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

17053.57. (a) For each taxable year beginning on or after January 1, 1997, and before January 1, 2017, there shall be allowed as a credit against

the amount of “net tax,” as defined in Section 17039, an amount equal to 20 percent of the amount of each qualified investment made by a taxpayer during the taxable year into a community development financial institution that is certified by the Department of Insurance, California Organized Investment Network, or any successor thereof.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Name of the taxpayer.

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

(iii) Phone number of the taxpayer.

(iv) Email address of the taxpayer.

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

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

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

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

(d) (1) The Insurance Commissioner may develop instructions, procedures, and standards for applications, and for administering the criteria for the evaluation of applications under this section. The Insurance

Commissioner may, from time to time, adopt, amend, or repeal regulations to implement the provisions of this section.

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

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

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

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

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

(2) Accept and evaluate applications for certification from any community development financial institution on behalf of the taxpayer and issue certificates to taxpayers in an aggregate amount that shall not exceed the limit specified in subdivision (b), with highest priority granted 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. The certificate shall include the amount eligible to be made as an investment that qualifies for the credit and the total amount of the credit to which the taxpayer is entitled for the taxable year. Applications for tax credits shall be accepted and evaluated throughout the year. The Insurance Commissioner shall establish tax credit issuance cycles throughout the year as necessary in order to issue tax credit certificates to those applications granted the highest priority.

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

numbers, the amount of the qualified investment made by each taxpayer, and the total amount of qualified investments.

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

(g) For purposes of this section:

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

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

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

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

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

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

(k) On or before June 30, 2016, the Legislative Analyst's Office shall submit a report to the Legislature, in compliance with Section 9795 of the Government Code, on the effects of the tax credits allowed under this section, Section 12209, and Section 23657, 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.

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

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

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

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

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

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

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

been allocated 30 percent of the annual aggregate amount of qualified investments shall become eligible to apply to be certified for any remaining tax credits in that calendar year.

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

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

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

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

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

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

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

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

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

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

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

(i) Name of the taxpayer.

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

(iii) Phone number of the taxpayer.

(iv) Email address of the taxpayer.

(v) The taxpayer's California company identification number for tax administration purposes, or in the case of an "S" corporation, the taxpayer identification numbers of all the shareholders for tax administration purposes.

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

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

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

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

(e) (1) The Insurance Commissioner may develop instructions, procedures, and standards for applications, and for administering the criteria for the evaluation of applications under this section. The Insurance Commissioner may, from time to time, adopt, amend, or repeal regulations to implement the provisions of this section.

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

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

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

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

(2) Accept and evaluate applications for certification from any community development financial institution on behalf of the taxpayer and issue certificates to taxpayers in an aggregate amount that shall not exceed the limit specified in subdivision (b), with highest priority granted 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. The certificate shall include the amount eligible to be made as an investment that qualifies for the credit and the total amount of the credit to which the taxpayer is entitled for the taxable year. Applications for tax credits shall be accepted and evaluated throughout the year. The Insurance Commissioner shall establish tax credit issuance cycles throughout the year as necessary in order to issue tax credit certificates to those applications granted the highest priority.

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

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

(g) For purposes of this section:

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

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

(h) (1) If a qualified investment is withdrawn before the end of the 60th month and not reinvested in another community development financial

institution within 60 days, there shall be added to the “tax,” as defined in Section 23036, for the taxable year in which the withdrawal occurs, the entire amount of any credit previously allowed under this section.

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

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

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

(k) On or before June 30, 2016, the Legislative Analyst’s Office shall submit a report to the Legislature, in compliance with Section 9795 of the Government Code, on the effects of the tax credits allowed under this section, Section 12209, and Section 17053.57, 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.

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

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