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AMENDED IN SENATE JULY 1, 2014

AMENDED IN ASSEMBLY MARCH 19, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2128

Introduced by Assembly Member Gordon

February 20, 2014

An act to amend Sections 926.1, 926.2, 926.3, and 12939.2 of the Insurance Code, relating to insurer investments.

LEGISLATIVE COUNSEL'S DIGEST

AB 2128, as amended, Gordon. Insurer investments: community development.

Existing law requires each admitted insurer to provide information by January 1, 2014, to the Insurance Commissioner on all of its community development investments and community development infrastructure investments in California. Community development investments are investments where all or a portion of the investment has as its primary purpose community development for, or that directly benefits, California low- or moderate-income individuals, families, or communities, and includes, but is not limited to, investments in California in or through the California Organized Investment Network (~~COIN~~), ~~certified~~ (*COIN*)-*certified* community development financial institutions (~~CDFIs~~), (*CDFIs*) and investments made pursuant to the requirements of federal, state, or local community development investment programs or community development investment tax incentive programs, including green investments, if these investments directly benefit low- or moderate-income individuals, families, and

communities and are consistent with applicable provisions. The commissioner and the Department of Insurance are required to provide certain information on community development investments and community development infrastructure investments to the public on the department's Internet Web site, as specified, by May 31, 2014, and biennially with regard to green investments. These provisions are to remain in effect only until January 1, 2015, and are repealed as of that date.

This bill would revise and recast these provisions by instead requiring each admitted insurer with annual premiums written in California equal to or in excess of \$100,000,000 for any reporting year to provide information to the commissioner on all of its community development investments, community development infrastructure investments, and green investments in California. The bill would require the information be reported by ~~January 1, 2017~~, *July 1, 2016*, as provided. The bill would revise the information that the commissioner and the department are required to provide on the department's Internet Web site by, *among other things*, including information on the actions taken by COIN to analyze the data by insurers for the purpose of creating and identifying potential investment opportunities, as specified. The bill would extend the department's Internet Web site publication date from May 31, 2014, to ~~November 1, 2017, inclusive~~, *December 31, 2016*, and would delete the biennial publication requirement for green investments and instead require a publication deadline of ~~November 1, 2017~~. *December 31, 2016*. The bill would also extend the repeal date to January 1, 2020.

Existing law requires each insurer admitted in California that writes premium in California equal to or in excess of \$100,000,000 annually to develop, and file with the commissioner no later than July 1, 2011, a policy statement on community development investments and community development infrastructure investments that expresses the insurer's goals for those investments during the filing year and following calendar year. Thereafter, each insurer that these provisions apply to is required to biennially review its policy statement, and, if the insurer revises or changes its policy statement, submit the new policy statement to the commissioner no later than July 1 of each odd-numbered year.

This bill would delete the provisions requiring a biennial review by each insurer of its policy statement and the submission of a new policy statement if there is a revision or change.

Existing law requires the department, COIN, or any successor thereof, to require the CDFIs receiving specified tax credit investments to submit

reports to the department, COIN, or any successor thereof, on their use of the program. Existing law authorizes the commissioner to establish and appoint a California Organized Investment Network Advisory Board. The term of each board member is 2 years and is staggered as provided. The board has certain powers and duties, including, but not limited to, advising COIN, or any successor thereof, on the best methods to increase the level of insurance industry capital in safe and sound investments while providing fair returns to investors and social benefits to underserved communities, meeting quarterly or as deemed necessary by the commissioner, and recommending programmatic guidelines, but not specific allocations of the tax credit amount, to the COIN program. The provisions regarding the board are in effect only until December 1, 2015, and are repealed as of that date.

~~This bill would authorize the commissioner, in his or her discretion, to extend or reduce a board member’s 2-year term, and would delete the would delete the board members’ staggered terms requirement. The bill would delete the quarterly meeting requirement, and would instead require a minimum of 3 or more meetings per year. The bill would also extend the repeal date to January 1, 2020.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 926.1 of the Insurance Code is amended
2 to read:
3 926.1. As used in this article, the following terms shall have
4 the following meanings:
5 (a) “Area median income” (AMI) means either of the following:
6 (1) The median family income for the Metropolitan Statistical
7 Area (MSA), if a person or geography is located in an MSA, or
8 for the metropolitan division, if a person or geography is located
9 in an MSA that has been subdivided into metropolitan divisions.
10 (2) The statewide nonmetropolitan median family income, if a
11 person or geography is located outside an MSA.
12 (b) “Community development investment” means an investment
13 where all or a portion of the investment has as its primary purpose
14 community development for, or that directly benefits, California
15 low- or moderate-income individuals, families, or communities.

1 “Community development investment” includes, but is not limited
2 to, investments in California in the following:

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

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

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

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

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

26 (6) Community development infrastructure investments.

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

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

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

38 (e) “Green investments” means investments that emphasize
39 renewable energy projects, economic development, and affordable
40 housing focused on infill sites so as to reduce the degree of

1 automobile dependency and promote the use and reuse of existing
2 urbanized lands supplied with infrastructure for the purpose of
3 accommodating new growth and jobs. “Green investments” also
4 means investments that can help communities grow through new
5 capital investment in the maintenance and rehabilitation of existing
6 infrastructure so that the reuse and reinvention of city centers and
7 existing transportation corridors and community space, including
8 projects offering energy efficiency improvements and renewable
9 energy generation, including, but not limited to, solar and wind
10 power, mixed-use development, affordable housing opportunities,
11 multimodal transportation systems, and transit-oriented
12 development, can advance economic development, jobs, and
13 housing.

14 (f) *“High-impact investments” means investments that are*
15 *innovative, responsive to community needs, not routinely provided*
16 *by insurers, or have a high degree of positive impact on the*
17 *economic welfare of low- or moderate-income individuals, families,*
18 *or communities in urban or rural areas of California.*

19 ~~(f)~~

20 (g) “Insurer” means an admitted insurer as defined in Section
21 24, including the State Compensation Insurance Fund, or a
22 domestic fraternal benefit society as defined in Section 10990.

23 ~~(g)~~

24 (h) “Investment” means a lawful equity or debt investment, or
25 loan, or deposit obligation, or other investment or investment
26 transaction allowed by the Insurance Code.

27 ~~(h)~~

28 (i) “Low-income” means an individual income that is less than
29 50 percent of the AMI, or a median family income that is less than
30 50 percent of the AMI in the case of a geographical area.

31 ~~(i)~~

32 (j) “MSA” means a metropolitan statistical area as defined by
33 the Director of the Office of Management and Budget.

34 ~~(j)~~

35 (k) “Moderate-income” means an individual income that is at
36 least 50 percent but less than 80 percent of the AMI, or a median
37 family income that is at least 50 percent but less than 80 percent
38 of the AMI in the case of a geographical area.

39 ~~(k)~~

1 (l) “Nonmetropolitan area” means any area that is not located
2 in an MSA.

3 ~~SECTION 1.~~

4 *SEC. 2.* Section 926.2 of the Insurance Code is amended to
5 read:

6 926.2. (a) (1) Each admitted insurer with annual premiums
7 written in California equal to or in excess of one hundred million
8 dollars (\$100,000,000) for any reporting year shall provide
9 information to the commissioner on all of its community
10 development investments, community development infrastructure
11 investments, and green investments in California. This information
12 shall be reported by ~~January 1, 2017~~, *July 1, 2016*, on investments
13 made *or held* during the calendar years 2013, 2014, and 2015 and
14 list, if applicable, investments that are ~~high impact~~, *high-impact*,
15 green, or rural. *The information reported by insurers may include*
16 *investments both held and originated, the percentage of any*
17 *investment that qualifies, and why an investment qualifies.* This
18 information shall be provided as part of the required filing pursuant
19 to Section 900 or ~~Section 11131~~, or through a data call, or by other
20 means as determined by the commissioner. The California
21 Organized Investment Network (COIN) shall provide insurers with
22 information on why investments, if any, were found not to be
23 qualified by the commissioner.

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

34 (3) This subdivision shall not preclude an insurer from satisfying
35 the requirements of paragraph (1) through a filing made by a
36 community development financial institution, provided all of the
37 following conditions are met:

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

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

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

11 (b) The commissioner shall, by ~~November 1, 2017~~, *December*
12 *31, 2016*, provide all of the following:

13 (1) Information on the department's Internet Web site on the
14 aggregate insurer community development investments and
15 community development infrastructure investments. Insurers that
16 make *high-impact* investments that are *defined as* innovative,
17 responsive to community needs, not routinely provided by insurers,
18 ~~qualify as green investments~~, or have a high degree of positive
19 impact on the economic welfare of low- or moderate-income
20 individuals, families, or communities in urban or rural *areas of*
21 California shall be identified.

22 (2) Information on the department's Internet Web site on the
23 actions taken by COIN to analyze the data by insurers for the
24 purpose of creating and identifying potential investment
25 opportunities, including the development of investment opportunity
26 bulletins. This information shall state the efforts made by COIN
27 to market and expand outreach to communities.

28 (c) The department shall also, by ~~November 1, 2017~~, *December*
29 *31, 2016*, provide information on the department's Internet Web
30 site regarding the aggregate amount of California public debt
31 (including all debt issued by the State of California or a California
32 state or local government agency) purchased by insurers as reported
33 to the department in their NAIC annual statement filing pursuant
34 to Section 900 or ~~Section~~ 11131.

35 (d) The department shall also, by ~~November 1, 2017~~, *December*
36 *31, 2016*, provide on its Internet Web site the aggregate amount
37 of identified California investments, as reported to the NAIC in
38 the annual statement filed pursuant to Section 900 or Section
39 11131.

1 (e) The department shall also by ~~November 1, 2017~~, *December*
 2 *31, 2016*, provide information on its Internet Web site regarding
 3 the aggregate amount of identified California insurer investments
 4 in green investments.

5 (f) This article shall remain in effect only until January 1, 2020,
 6 and as of that date is repealed, unless a later enacted statute, that
 7 is enacted before January 1, 2020, deletes or extends that date.

8 ~~SEC. 2.~~

9 *SEC. 3.* Section 926.3 of the Insurance Code is amended to
 10 read:

11 926.3. (a) It is the policy of the State of California that (1)
 12 insurers should, where practicable, be supportive of community
 13 development investments and community development
 14 infrastructure investments, and insurers should be encouraged to
 15 invest in prudent community development investments and
 16 community development infrastructure investments that benefit
 17 California and California’s low- and moderate-income
 18 communities; (2) every admitted insurer that writes a substantial
 19 amount of insurance in the state should consider community
 20 development investments and community development
 21 infrastructure investments; and (3) the California Organized
 22 Investment Network is a part of the department, and has the
 23 responsibility to pursue active measures to encourage community
 24 development investing by admitted insurers.

25 (b) Each insurer admitted in California that writes premium in
 26 California equal to or in excess of one hundred million dollars
 27 (\$100,000,000) annually shall develop, and file with the
 28 commissioner no later than July 1, 2011, a policy statement on
 29 community development investments and community development
 30 infrastructure investments that expresses the insurer’s goals for
 31 these investments during the current and following calendar year.
 32 These filings shall be public information. For purposes of this
 33 subdivision, “policy statement” means a statement of principle
 34 intended to influence a decision or action. The policy statement
 35 may include general goals or specific investment goals, but is not
 36 required to contain specific investment goals or thresholds.

37 (c) The commissioner shall establish a link on the department’s
 38 Internet Web site that provides public access to the contents of
 39 each insurer’s policy statement and the data on community
 40 development investments and community development

1 infrastructure investments provided by each insurer pursuant to
2 subdivision (b).

3 ~~SEC. 3.~~

4 *SEC. 4.* Section 12939.2 of the Insurance Code is amended to
5 read:

6 12939.2. (a) The commissioner may establish and appoint a
7 California Organized Investment Network Advisory Board.

8 (b) For purposes of this section, all of the following shall apply:

9 (1) “Commissioner” means the Insurance Commissioner of this
10 state.

11 (2) “Board” means the California Organized Investment
12 Network Advisory Board.

13 (3) “Licensed attorney” means an attorney who resides in this
14 state who has successfully passed the California bar examination
15 and has been admitted to practice in this state or has otherwise
16 been licensed to practice law in this state by the State Bar of
17 California.

18 (c) The board shall include the commissioner, or his or her
19 designee, three executives in the insurance investment industry,
20 and one volunteer from each of the following categories:

21 (1) A licensed attorney practicing insurance law.

22 (2) A member of the public, appointed by the Speaker of the
23 Assembly.

24 (3) A member of the public, appointed by the Senate Committee
25 on Rules.

26 (4) A member of a consumer advocacy group.

27 (5) An affordable housing practitioner.

28 (6) A local economic development practitioner.

29 (7) A member of a financial institution or a community
30 development financial institution.

31 (8) A representative with experience seeking investments for
32 low- to moderate-income or rural communities.

33 (d) The board shall elect, from among its members, a chair.

34 (e) The term of each member shall be for two years and may
35 ~~be extended or reduced at the discretion of the commissioner.~~
36 *years.*

37 (f) The board shall have all of the following powers and duties:

38 (1) To advise the California Organized Investment Network, or
39 any successor thereof, on the best methods to increase the level of
40 insurance industry capital in safe and sound investments while

1 providing fair returns to investors and social benefits to
2 underserved communities.

3 (2) To meet a minimum of three or more times per year, or as
4 deemed necessary by the commissioner.

5 (3) To facilitate contacts among executives at insurance
6 companies, community-based organizations, and community
7 development financial institutions.

8 (4) To recommend programmatic guidelines, but not specific
9 allocations of the tax credit amount, to the California Organized
10 Investment Network program.

11 (g) The members of the board shall not receive compensation
12 from the state for their services under this section but, when called
13 to attend a meeting of the board, may be reimbursed for their actual
14 and necessary expenses incurred in connection with the meeting.

15 (h) This section shall remain in effect only until January 1, 2020,
16 and as of that date is repealed, unless a later enacted statute, that
17 is enacted before January 1, 2020, deletes or extends that date.