

AMENDED IN ASSEMBLY MAY 17, 2016

AMENDED IN ASSEMBLY APRIL 12, 2016

AMENDED IN ASSEMBLY MARCH 29, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2647

**Introduced by Assembly Members Eduardo Garcia and Medina
(Principal coauthors: ~~Assembly Members Brown, Chu, and Dodd~~)**

February 19, 2016

An act to ~~add Section 18410.3 to, and to add and repeal Sections 12283, 17053.9, and 23622.9 of, 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 2647, as amended, Eduardo Garcia. ~~Income taxation: insurance taxation: credits: California New Markets Tax Credit. Insurance taxes: income taxes: credits: community development financial institution investments.~~

Existing law, until January 1, 2017, allows a credit under the Personal Income Tax Law, the Corporation Tax Law, and a credit against the tax imposed on an insurer 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, \$50,000,000 per year, and authorizes the California Organized Investment Network to certify investments for the credit until January 1, 2017.

This bill would extend the provisions relating to the authorization of the credits and certification by the Department of Insurance and the

California Organized Investment Network until January 1, 2027. The bill would also increase the aggregate amount under all those laws of qualified investments allowed to be certified by the California Organized Investment Network for the credits to \$120,000,000 per year.

This bill would take effect immediately as a tax levy.

~~Existing federal law allows a New Markets Tax Credit to a taxpayer holding a qualified equity investment in an amount equal to the applicable percentage of the amount paid to the qualified community development entity for investment in low-income communities.~~

~~The state Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws. Existing state constitutional law governing insurance taxation imposes an annual tax on the gross premiums of an insurer, as defined, doing business in this state at specified rates.~~

~~Existing law establishes the Governor's Office of Business and Economic Development, also known as "GO-Biz," to, among other things, serve the Governor as the lead entity for economic strategy and the marketing of California on issues relating to business development, private sector investment, and economic growth.~~

~~This bill would allow a California New Markets Tax Credit under the Personal Income Tax Law, the Corporation Tax Law, and the law governing insurance taxation, in modified conformity with the federal New Markets Tax Credit, for taxable years beginning on or after January 1, 2017, and before January 1, 2022, in a specified amount for investments in low-income communities. The bill would limit the total annual amount of credit allowed pursuant to these provisions to \$40,000,000 per calendar year. The bill would impose specified duties on the Responsible Tax Credit Administrator (RTCA), to be designated by the Governor, with regard to the application for, and allocation of, the credit. The bill would require the RTCA to establish and impose reasonable fees upon entities that apply for the allocation of the credit, to be deposited in the California New Markets Tax Credit Fund established by the bill, and use the revenue, upon annual appropriation by the Legislature, to defray the cost of applying to and administering the credits, as specified. The bill would only authorize the allocation for these credits for those taxable years for which moneys are appropriated to the RTCA to administer these credits for those taxable years.~~

~~Existing law requires any bill authorizing a new personal or corporation income tax credit to contain, among other things, specific~~

~~goals, purposes, and objectives that the tax credit will achieve, detailed performance indicators, and data collection requirements, as provided.~~

~~This bill would also include that additional information required for any bill authorizing a new personal or corporation income tax credit.~~

~~The bill would provide that its provisions are severable.~~

~~This bill would take effect immediately as a tax levy.~~

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

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

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

3 12209. (a) For each year beginning on or after January 1, 1999,
4 and before January 1, ~~2017~~, 2027, 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 *one hundred twenty million dollars (\$120,000,000)* for each
5 calendar year. However, if the aggregate amount of qualified
6 investments made in any calendar year is less than ~~fifty million~~
7 ~~dollars (\$50,000,000)~~, *one hundred twenty million dollars*
8 *(\$120,000,000)*, the difference may be carried over to the next
9 year, and any succeeding year during which this section remains
10 in effect, and added to the aggregate amount authorized for those
11 years.

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

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

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

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

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

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

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

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

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

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

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

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

24 (i) Name of the taxpayer.

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

27 (iii) Phone number of the taxpayer.

28 (iv) Email address of the taxpayer.

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

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

36 (4) Provide an annual listing to the State Board of Equalization,
37 in the form and manner agreed upon by the State Board of
38 Equalization and the Department of Insurance, California
39 Organized Investment Network, or its successor, of the names and
40 taxpayer's California company identification numbers of any

1 taxpayer who makes any withdrawal or partial withdrawal of a
2 qualified investment before the expiration of 60 months from the
3 date of the qualified investment.

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

7 (e) The California Organized Investment Network may certify
8 investments for the credit allowed by this section on or before
9 January 1, ~~2017~~, 2027, but not after that date.

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

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

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

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

28 (1) Accept and evaluate applications for certification from
29 financial institutions and issue certificates that the applicant is a
30 community development financial institution qualified to receive
31 qualified investments. To receive a certificate, an applicant shall
32 satisfy the Department of Insurance, California Organized
33 Investment Network, or any successor thereof, that it meets the
34 specific requirements to be a community development financial
35 institution for this state program as defined in paragraph (2) of
36 subdivision (h). The certificate may be issued for a specified period
37 of time, and may include reasonable conditions to effectuate the
38 intent of this section. The Insurance Commissioner may suspend
39 or revoke a certification, after affording the institution notice and

1 the opportunity to be heard, if the commissioner finds that an
2 institution no longer meets the requirement for certification.

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

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

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

29 (h) For purposes of this section:

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

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

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

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

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

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

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

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

12 (m) This section shall remain in effect only until December 1,
13 ~~2017~~, 2027, and as of that date is repealed.

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

16 17053.57. (a) For each taxable year beginning on or after
17 January 1, 1997, and before January 1, ~~2017~~, 2027, there shall be
18 allowed as a credit against the amount of “net tax,” as defined in
19 Section 17039, an amount equal to 20 percent of the amount of
20 each qualified investment made by a taxpayer during the taxable
21 year into a community development financial institution that is
22 certified by the Department of Insurance, California Organized
23 Investment Network, or any successor thereof.

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

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

37 (3) (A) The aggregate amount of qualified investments made
38 by all taxpayers pursuant to this section, Section 12209, and Section
39 23657 shall not exceed ~~fifty million dollars (\$50,000,000)~~ *one*
40 *hundred twenty million dollars (\$120,000,000)* for each calendar

1 year. However, if the aggregate amount of qualified investments
2 made in any calendar year is less than ~~fifty million dollars~~
3 ~~(\$50,000,000)~~, *one hundred twenty million dollars (\$120,000,000)*,
4 the difference may be carried over to the next year, and any
5 succeeding year during which this section remains in effect, and
6 added to the aggregate amount authorized for those years.

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

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

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

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

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

37 (2) (A) Apply to the Department of Insurance, California
38 Organized Investment Network, or its successor, on behalf of the
39 taxpayer, for certification of the amount of the investment and the

1 credit amount allocated to the taxpayer, obtain the certification,
2 and retain a copy of the certification.

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

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

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

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

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

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

18 (i) Name of the taxpayer.

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

21 (iii) Phone number of the taxpayer.

22 (iv) Email address of the taxpayer.

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

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

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

38 (5) Submit reports to the Department of Insurance, California
39 Organized Investment Network, or any successor thereof, as

1 required pursuant to subdivision (a) of Section 12939.1 of the
2 Insurance Code.

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

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

13 (3) Notwithstanding Chapter 3.5 (commencing with Section
14 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
15 any emergency regulation adopted or amended by the Insurance
16 Commissioner pursuant to this section shall remain in effect until
17 amended or repealed by the department.

18 (e) The California Organized Investment Network may certify
19 investments for the credit allowed by this section on or before
20 January 1, ~~2017~~, 2027, but not after that date.

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

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

38 (2) Accept and evaluate applications for certification from a
39 community development financial institution on behalf of the
40 taxpayer and issue certificates to taxpayers in an aggregate amount

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

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

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

23 (g) For purposes of this section:

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

1 with its community development mission and for the benefit of
2 economically disadvantaged communities and low-income people
3 in California.

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

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

23 (2) If a qualified investment is reduced before the end of the
24 60th month, but not below fifty thousand dollars (\$50,000), there
25 shall be added to the “net tax,” as defined in Section 17039, for
26 the taxable year in which the reduction occurs, an amount equal
27 to 20 percent of the total reduction for the taxable year.

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

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

36 (k) On or before June 30, 2016, the Legislative Analyst’s Office
37 shall submit a report to the Legislature, in compliance with Section
38 9795 of the Government Code, on the effects of the tax credits
39 allowed under this section, Section 12209, and Section 23657,
40 with a focus on employment in low-to-moderate income and rural

1 areas, and on the benefits of these tax credits to low-to-moderate
2 income and rural persons.

3 (l) This section shall remain in effect only until December 1,
4 2017, 2027, and as of that date is repealed.

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

7 23657. (a) For each taxable year beginning on or after January
8 1, 1997, and before January 1, ~~2017, 2027~~, there shall be allowed
9 as a credit against the amount of “tax,” as defined in Section 23036,
10 an amount equal to 20 percent of the amount of each qualified
11 investment made by a taxpayer during the taxable year into a
12 community development financial institution that is certified by
13 the Department of Insurance, California Organized Investment
14 Network, or any successor thereof.

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

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

28 (3) (A) The aggregate amount of qualified investments made
29 by all taxpayers pursuant to this section, Section 12209, and Section
30 17053.57 shall not exceed ~~fifty million dollars (\$50,000,000)~~ *one*
31 *hundred twenty million dollars (\$120,000,000)* for each calendar
32 year. However, if the aggregate amount of qualified investments
33 made in any calendar year is less than ~~fifty million dollars~~
34 ~~(\$50,000,000)~~, *one hundred twenty million dollars (\$120,000,000)*,
35 the difference may be carried over to the next year, and any
36 succeeding year during which this section remains in effect, and
37 added to the aggregate amount authorized for those years.

38 (B) The total amount of qualified investments certified by the
39 California Organized Investment Network in any calendar year to
40 any one community development financial institution together

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

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

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

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

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

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

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

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

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

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

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

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

9 (i) Name of the taxpayer.

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

12 (iii) Phone number of the taxpayer.

13 (iv) Email address of the taxpayer.

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

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

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

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

34 (d) The California Organized Investment Network may certify
35 investments for the credit allowed by this section on or before
36 January 1, ~~2017~~, 2027, but not after that date.

37 (e) (1) The Insurance Commissioner may develop instructions,
38 procedures, and standards for applications, and for administering
39 the criteria for the evaluation of applications under this section.
40 The Insurance Commissioner may, from time to time, 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 (f) The Department of Insurance, California Organized
13 Investment Network, or any successor thereof, shall do all of the
14 following:

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

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

1 tax credit issuance cycles throughout the year as necessary in order
2 to issue tax credit certificates to those applications granted the
3 highest priority.

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

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

14 (g) For purposes of this section:

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

35 (2) “Community development financial institution” means a
36 private financial institution located in this state that is certified by
37 the Department of Insurance, California Organized Investment
38 Network, or its successor, that, consistent with the legislative
39 findings, declarations, and intent set forth in Section 12939 of the
40 Insurance Code, has community development as its primary

1 mission, and that lends in urban, rural, or reservation-based
2 communities in this state. A community development financial
3 institution may include a community development bank, a
4 community development loan fund, a community development
5 credit union, a microenterprise fund, a community development
6 corporation-based lender, or a community development venture
7 fund.

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

14 (2) If a qualified investment is reduced before the end of the
15 60th month, but not below fifty thousand dollars (\$50,000), there
16 shall be added to the “tax,” as defined in Section 23036, for the
17 taxable year in which the reduction occurs, an amount equal to 20
18 percent of the total reduction for the taxable year.

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

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

27 (k) On or before June 30, 2016, the Legislative Analyst’s Office
28 shall submit a report to the Legislature, in compliance with Section
29 9795 of the Government Code, on the effects of the tax credits
30 allowed under this section, Section 12209, and Section 17053.57,
31 with a focus on employment in low-to-moderate income and rural
32 areas, and on the benefits of these tax credits to low-to-moderate
33 income and rural persons.

34 (l) This section shall remain in effect only until December 1,
35 2017, 2027, and as of that date is repealed.

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

38 ~~SECTION 1. The Legislature finds and declares the following:~~

39 ~~(a) While many areas of California have recovered from the~~
40 ~~economic and community development impacts of the 2006~~

1 Financial Crisis and the 2010 global recession, Californians in a
2 number of communities and neighborhoods are still experiencing
3 their lingering effects. In some cases this has resulted in small and
4 medium businesses in low-income areas lacking sufficient access
5 to capital and technical assistance. Given that the state has many
6 needs and limited resources, moneys from the private sector are
7 necessary to fill this capital and investment gap.

8 (b) Initially enacted in 2000, the federal government established
9 the New Markets Tax Credit (NMTC) Program, which uses a
10 market-based approach for expanding capital and technical
11 assistance to businesses in lower income communities. The federal
12 program is jointly administered by the Community Development
13 Financial Institutions Fund (CDFI Fund) and the Internal Revenue
14 Service. The NMTC Program allocates federal tax incentives to
15 community development entities (CDE), which they then use to
16 attract private investors who contribute funds that can be used to
17 finance and invest in businesses and develop real estate in
18 low-income communities. Through the 2013-14 funding round,
19 the CDFI Fund had awarded approximately forty billion dollars
20 (\$40,000,000,000) in NMTC in 836 awards, including three billion
21 dollars (\$3,000,000,000) in American Recovery and Investment
22 Act of 2009 awards and one billion dollars (\$1,000,000,000) of
23 special allocation authority to be used for the recovery and
24 redevelopment of the Gulf Opportunity Zone.

25 (c) Since 2003, the NMTC Program has created or retained an
26 estimated 197,585 jobs nationally. It has also supported the
27 construction of 32.4 million square feet of manufacturing space,
28 74.8 million square feet of office space, and 57.5 million square
29 feet of retail space. The United States Department of the Treasury
30 reports that a secondary benefit is that as these communities
31 develop, they become more attractive to investors, catalyzing a
32 ripple effect that spurs further investments and revitalization.

33 (d) For every one dollar (\$1) invested by the federal government,
34 the NMTC Program generates over eight dollars (\$8) of private
35 investment. The NMTC Program catalyzes investment in the most
36 economically challenged areas of the state. Over 75 percent of
37 New Markets Tax Credit investments have been made in highly
38 distressed areas, meaning the household income was less than 60
39 percent of statewide median income and the poverty rate was higher
40 than 30 percent.

1 (e) ~~The federal NMTC totals 39 percent of the original~~
2 ~~investment amount in the CDE and is claimed over a period of~~
3 ~~seven years (5 percent for each of the first three years and 6 percent~~
4 ~~for each of the remaining four years). Any investment by any~~
5 ~~taxpayer in the CDE redeemed before the end of the seven-year~~
6 ~~period will be recaptured.~~

7 (f) ~~Fourteen states in the United States have adopted state~~
8 ~~programs using the NMTC model including Alabama, Florida,~~
9 ~~Illinois, Nevada, and Oregon. While some of the programs~~
10 ~~substantially mirror the federal program, others vary in both the~~
11 ~~percentage of the credit and some of the policies that form the~~
12 ~~foundation of the credit. One of the reasons cited for establishing~~
13 ~~state-level programs is to make a state more attractive to CDEs,~~
14 ~~which results in increasing the amount of federal NMTCs being~~
15 ~~utilized in a state. Further, several studies, including a January 1,~~
16 ~~2011, case study by Pacific Community Ventures, showed that for~~
17 ~~every dollar of forgone tax revenue, the federal NMTC leverages~~
18 ~~twelve dollars (\$12) to fourteen dollars (\$14) of private investment.~~

19 ~~SEC. 2. Section 12283 is added to the Revenue and Taxation~~
20 ~~Code, to read:~~

21 ~~12283. (a) There is hereby created the California New Markets~~
22 ~~Tax Credit Program as provided in this section, Section 17053.9,~~
23 ~~and Section 23622.9. The purpose of this program is to stimulate~~
24 ~~private sector investment in lower income communities by~~
25 ~~providing a tax incentive to community and economic development~~
26 ~~entities that can be leveraged by the entity to attract private sector~~
27 ~~investment that in turn will be deployed by providing financing~~
28 ~~and technical assistance to small and medium-sized businesses~~
29 ~~and the development of commercial, industrial, and community~~
30 ~~development projects, including, but not limited to, facilities for~~
31 ~~nonprofit service organizations, light manufacturing, and mixed-use~~
32 ~~and transit-oriented development. RTCA shall administer this~~
33 ~~program as provided in this section, Section 17053.9, and Section~~
34 ~~23622.9.~~

35 ~~(b) (1) For taxable years beginning on or after January 1, 2017,~~
36 ~~and before January 1, 2022, and subject to subdivision (h), there~~
37 ~~shall be allowed as a credit against the tax described in Section~~
38 ~~12201, in an amount determined in accordance with Section 45D~~
39 ~~of the Internal Revenue Code, relating to the new markets tax~~
40 ~~credit, as modified in this section.~~

1 ~~(2) For the purposes of this section, “RTCA” means the~~
2 ~~Responsible Tax Credit Administrator, as designated by the~~
3 ~~Governor.~~

4 ~~(e) Section 45D of the Internal Revenue Code is modified as~~
5 ~~follows:~~

6 ~~(1) Section 45D(a)(2) of the Internal Revenue Code, relating to~~
7 ~~applicable percentage, is modified by substituting for “(A) 5~~
8 ~~percent with respect to the first 3 credit allowance dates, and (B)~~
9 ~~6 percent with respect to the remainder of the credit allowance~~
10 ~~dates” with the following:~~

11 ~~(A) Zero percent with respect to the first two credit allowance~~
12 ~~dates.~~

13 ~~(B) Seven percent with respect to the third credit allowance~~
14 ~~date.~~

15 ~~(C) Eight percent with respect to the remainder of the credit~~
16 ~~allowance dates.~~

17 ~~(2) (A) Section 45D(e)(1) of the Internal Revenue Code, relating~~
18 ~~to qualified community development entity, is modified to only~~
19 ~~include a qualified community development entity, that is certified~~
20 ~~by the Secretary of the Treasury, and its subsidiary qualified~~
21 ~~community development entities that have entered into an~~
22 ~~allocation agreement with the Community Development Financial~~
23 ~~Institutions Fund of the United States Treasury Department, with~~
24 ~~respect to credits authorized by Section 45D of the Internal~~
25 ~~Revenue Code, that includes California within the service area and~~
26 ~~is dated on or after January 1, 2012.~~

27 ~~(B) Section 45D(e)(2) of the Internal Revenue Code, relating~~
28 ~~to special rules for certain organizations, is modified to only~~
29 ~~include a specialized small business investment company or~~
30 ~~community development financial institution that entered into an~~
31 ~~allocation agreement with the Community Development Financial~~
32 ~~Institutions Fund of the United States Treasury Department, with~~
33 ~~respect to credits authorized by Section 45D of the Internal~~
34 ~~Revenue Code, that includes California within the service area and~~
35 ~~is dated on or after January 1, 2012.~~

36 ~~(3) The term “qualified active low-income community business,”~~
37 ~~as defined in Section 45D(d)(2) of the Internal Revenue Code, is~~
38 ~~modified as follows:~~

1 (A) ~~By substituting “any low-income community in California”~~
 2 ~~for “any low-income community” every place it appears in Section~~
 3 ~~45D of the Internal Revenue Code.~~

4 (B) ~~A qualified active low-income community business shall~~
 5 ~~not include any business that derives, or projects to derive, 15~~
 6 ~~percent or more of its annual revenue from the rental or sale of~~
 7 ~~real estate. This exclusion does not apply to a business that is~~
 8 ~~controlled by, or under common control with, another business if~~
 9 ~~the second business: (i) does not derive or project to derive 15~~
 10 ~~percent or more of its annual revenue from the rental or sale of~~
 11 ~~real estate; and (ii) is the primary tenant of the real estate leased~~
 12 ~~from the first business.~~

13 (C) ~~A qualified active low-income community business shall~~
 14 ~~only include a business that, at the time the initial investment is~~
 15 ~~made, has 250 or fewer employees and is located in one or more~~
 16 ~~California low-income communities. The operating business shall~~
 17 ~~meet all other conditions of a qualified active low-income~~
 18 ~~community business, except as modified by this paragraph. This~~
 19 ~~requirement does not apply to a business that is located on land~~
 20 ~~and is controlled by, or under common control with, a federally~~
 21 ~~recognized tribe.~~

22 (D) ~~A qualified active low-income community business shall~~
 23 ~~only include a business located in census tracts with a poverty rate~~
 24 ~~greater than 30 percent, or census tracts, if located within a~~
 25 ~~nonmetropolitan area, with a median family income that does not~~
 26 ~~exceed 60 percent of median family income for this state, or census~~
 27 ~~tracts, if located within a metropolitan area, with a median family~~
 28 ~~income that does not exceed 60 percent of the greater of the~~
 29 ~~California median family income or the metropolitan area median~~
 30 ~~family income, or census tracts with unemployment rates at least~~
 31 ~~1.5 times the national average.~~

32 (E) ~~A qualified active low-income community business shall~~
 33 ~~not include any business that operates or derives revenues from~~
 34 ~~the operation of a country club, gaming establishment, massage~~
 35 ~~parlor, liquor store, or golf course.~~

36 (F) ~~A qualified active low-income community business shall~~
 37 ~~not include a sexually oriented business. A “sexually oriented~~
 38 ~~business” means a nightclub, bar, restaurant, or similar commercial~~
 39 ~~enterprise that provides for an audience of two or more individuals~~
 40 ~~live nude entertainment or live nude performances where the nudity~~

1 is a function of everyday business operations and where nudity is
2 a planned and intentional part of the entertainment or performance.
3 “Nude” means clothed in a manner that leaves uncovered or visible,
4 through less than fully opaque clothing, any portion of the genitals
5 or, in the case of a female, any portion of the breasts below the
6 top of the areola of the breasts.

7 (G) A qualified active low-income community business shall
8 not include a charter school.

9 (4) Section 45D(f) of the Internal Revenue Code, relating to
10 national limitation on amount of investments designated, is
11 modified as follows:

12 (A) The following shall apply in lieu of the provisions of Section
13 45D(f)(1) of the Internal Revenue Code: The aggregate amount
14 of qualified equity investments that may be allocated in any
15 calendar year for purposes of this section, Section 17053.9, and
16 Section 23622.9 shall be forty million dollars (\$40,000,000) per
17 calendar year. The allocation of any undesignated qualified equity
18 investments shall be returned to RTCA by March 1 of the year
19 following allocation and the value of the undesignated qualified
20 equity investment shall be available for allocation in the following
21 calendar years in accordance with the application process. Any
22 qualified equity investment attributable to recaptured credits shall
23 be available to RTCA on March 1 of the year following recapture
24 and shall be available for allocation in the following calendar years
25 in accordance with subparagraph (B) of paragraph (5). Reallocated
26 qualified equity investments attributable to recapture credits shall
27 not count against the annual or the cumulative limit.

28 (B) The references to “the Secretary” in Section 45D(f)(2) of
29 the Internal Revenue Code, relating to allocation of limitation, is
30 modified to read “RTCA.”

31 (C) The last sentence of Section 45D(f)(3) of the Internal
32 Revenue Code, relating to carryover of unused limitation, shall
33 not apply.

34 (5) Section 45D(g)(3) of the Internal Revenue Code, relating
35 to recapture event, is modified to add the following:

36 (A) The qualified community development entity fails to comply
37 with subparagraph (D) of paragraph (5) of subdivision (d). In this
38 case, recapture shall be 100 percent of the credit.

1 ~~(B) RTCA shall establish a process, in consultation with the~~
2 ~~Department of Insurance, for the recapture of credits allowed under~~
3 ~~this section from the entity that claimed the credit on a return.~~
4 ~~(C) Recaptured qualified equity investments revert back to~~
5 ~~RTCA and shall be reissued. The reissue shall not count toward~~
6 ~~the annual or cumulative allocation limitation. The reissue shall~~
7 ~~be done in the following order:~~
8 ~~(i) First, pro rata to applicants whose qualified equity investment~~
9 ~~allocations were reduced pursuant to subparagraph (E) of paragraph~~
10 ~~(5) of subdivision (d) by the annual allocation limitation.~~
11 ~~(ii) Thereafter, in accordance with the application process.~~
12 ~~(D) Enforcement of each of the recapture provisions shall be~~
13 ~~subject to a six-month cure period.~~
14 ~~(d) (1) RTCA shall adopt guidelines necessary or appropriate~~
15 ~~to carry out its responsibilities with respect to the allocation,~~
16 ~~monitoring, and management of the tax credit program authorized~~
17 ~~by this section.~~
18 ~~(2) (A) RTCA shall establish and impose reasonable fees upon~~
19 ~~entities that apply for the allocation pursuant to this subdivision~~
20 ~~that in the aggregate defray the cost of reviewing applications for~~
21 ~~the program. RTCA may impose other reasonable fees upon entities~~
22 ~~that receive the allocation pursuant to this subdivision that in the~~
23 ~~aggregate defray the cost of administering the program.~~
24 ~~(B) The fees collected shall be deposited in the California New~~
25 ~~Markets Tax Credit Fund established in Section 18410.3.~~
26 ~~(3) In developing guidelines, RTCA shall adopt an allocation~~
27 ~~process that does all of the following:~~
28 ~~(A) Creates an equitable distribution process that ensures that~~
29 ~~low-income community populations across the state have an~~
30 ~~opportunity to benefit from the program.~~
31 ~~(B) Sets minimum organizational capacity standards that~~
32 ~~applicants must meet in order to receive an allocation of authority~~
33 ~~to designate qualified equity investments, including, but not limited~~
34 ~~to, its business strategy, targeted community outcomes,~~
35 ~~capitalization strategy, and management capacity.~~
36 ~~(C) Considers the qualified community development entity's~~
37 ~~prior qualified low-income community investments under Section~~
38 ~~45D of the Internal Revenue Code.~~

1 ~~(D) Considers the qualified community development entity's~~
2 ~~prior qualified low-income community investments under this~~
3 ~~section, including subparagraph (D) of paragraph (5):~~

4 ~~(4) (A) Subject to subdivision (h), RTCA shall begin accepting~~
5 ~~applications on or before May 15, 2017, and shall award authority~~
6 ~~to designate qualified equity investments annually through 2021.~~

7 ~~(B) In the instance where RTCA determines that an application~~
8 ~~is incomplete, the qualified community development entity shall~~
9 ~~be given five business days to provide the omitted information.~~

10 ~~(5) (A) In the 2017 awards cycle, RTCA shall award authority~~
11 ~~to designate qualified equity investments to qualified community~~
12 ~~development entities described in paragraph (2) of subdivision (c)~~
13 ~~in the order applications are received by RTCA. Applications~~
14 ~~received on the same day shall be deemed to have been received~~
15 ~~simultaneously.~~

16 ~~(B) In the 2018 to 2021 award cycles, inclusive, at least 60~~
17 ~~percent of the authority to designate qualified equity investments~~
18 ~~shall be awarded pursuant to subparagraph (A). At the discretion~~
19 ~~of RTCA, a higher percentage of authority to designate qualified~~
20 ~~equity investments may be awarded pursuant to subparagraph (A).~~

21 ~~(C) RTCA shall award up to 40 percent of the authority to~~
22 ~~designate qualified equity investments in the 2018 to 2021,~~
23 ~~inclusive, award cycles, to qualified community development~~
24 ~~entities on a competitive basis that meets the following criteria:~~

25 ~~(i) Awards shall be reviewed using blind scoring and a review~~
26 ~~committee that is composed of community development finance~~
27 ~~practitioners and members having demonstrated experience in~~
28 ~~assessing organizational business strategy, community outcomes,~~
29 ~~capitalization strategy, and management capacity.~~

30 ~~(ii) A member of the review committee shall not have a financial~~
31 ~~interest, which includes, but is not limited to, asking, consenting,~~
32 ~~or agreeing to receive any commission, emolument, gratuity,~~
33 ~~money, property, or thing of value for his or her own use, benefit,~~
34 ~~or personal advantage for procuring or endeavoring to procure for~~
35 ~~any person, partnership, joint venture, association, or corporation~~
36 ~~any qualified equity investment or other assistance from any~~
37 ~~applicant.~~

38 ~~(iii) Priority shall be provided to both of the following:~~

39 ~~(I) Applications that commit to addressing the hardest to serve~~
40 ~~and undercapitalized lower income populations.~~

1 ~~(H) Applications that support neighborhood revitalization~~
 2 ~~strategies driven by local grassroots stakeholders in multiple~~
 3 ~~low-income communities across one or more regions or the state.~~
 4 ~~These applications shall demonstrate how their investment activity~~
 5 ~~provides a scalable economic development model.~~

6 ~~(D) For applications described in subparagraphs (A) and (B),~~
 7 ~~applications for awards shall include a commitment to make at~~
 8 ~~least 15 percent of qualified community development investments~~
 9 ~~to a qualified community development entity with the assistance~~
 10 ~~of a nonprofit organization, as documented by a cooperation~~
 11 ~~agreement that states the terms and conditions of that assistance.~~
 12 ~~For the purposes of this subparagraph, the following shall apply:~~

13 ~~(i) A qualified community development entity shall be certified~~
 14 ~~under Section 45D of the Internal Revenue Code but has not~~
 15 ~~received a federal New Markets Tax Credit allocation on or after~~
 16 ~~January 1, 2012, and has either a local service area that includes~~
 17 ~~one or more California communities or a California statewide~~
 18 ~~service area, but excluding qualified community development~~
 19 ~~entities with a national service area.~~

20 ~~(ii) A nonprofit organization shall meet all of the following~~
 21 ~~requirements: Is tax exempt under Section 23701, is registered~~
 22 ~~with the Registry of Charitable Trusts, which is administered by~~
 23 ~~the Attorney General, has articles of incorporation or articles of~~
 24 ~~organization that state the primary mission of the organization is~~
 25 ~~focused on improving the economic well-being of low-income~~
 26 ~~communities or individuals, and has bylaws that provide that the~~
 27 ~~organization maintains accountability to residents of low-income~~
 28 ~~communities through their representation on any governing board~~
 29 ~~or on an advisory board of the nonprofit organization.~~

30 ~~(E) (i) For applications described in subparagraph (A), in the~~
 31 ~~event requests for authority to designate qualified equity~~
 32 ~~investments exceed the applicable annual allocation limitation,~~
 33 ~~RTCA shall certify, consistent with remaining qualified equity~~
 34 ~~investment capacity, qualified equity investments of applicants in~~
 35 ~~proportionate percentages based upon the ratio of the amount of~~
 36 ~~qualified equity investments requested in such applications to the~~
 37 ~~total amount of qualified equity investments requested in all such~~
 38 ~~applications received on the same day.~~

39 ~~(ii) If a pending request cannot be fully certified due to this~~
 40 ~~limit, RTCA shall certify the portion that may be certified unless~~

1 the qualified community development entity elects to withdraw
2 its request rather than receive partial certification.

3 (F) An approved applicant may transfer all or a portion of its
4 certified qualified equity investment authority to its controlling
5 entity or any subsidiary qualified community development entity
6 of the controlling entity, provided that the applicant and the
7 transferee notify RTCA within 30 calendar days of such transfer
8 and include the information required in the application with respect
9 to such transferee with such notice. The transferee shall be subject
10 to the same rules, requirements, and limitations applicable to the
11 transferor.

12 (G) Within 200 calendar days of RTCA sending notice of
13 certification, the qualified community development entity or any
14 transferee, under subparagraph (F), shall issue the qualified equity
15 investment and receive cash in the amount of the certified amount.
16 The qualified community development entity or transferee, under
17 subparagraph (F), shall provide RTCA with evidence of the receipt
18 of the cash investment within 205 calendar days of the applicant
19 receiving notice of certification. If the qualified community
20 development entity or any transferee, under subparagraph (F), does
21 not receive the cash investment and issue the qualified equity
22 investment within 200 calendar days of RTCA sending the
23 certification notice, the certification shall lapse and the entity may
24 not issue the qualified equity investment without reapplying to
25 RTCA for certification. Lapsed certifications revert back to RTCA
26 and shall be reissued in the following order:

27 (i) First, pro rata to applicants whose qualified equity investment
28 allocations were reduced pursuant to subparagraph (E) under the
29 annual allocation limitation of forty million dollars (\$40,000,000)
30 in paragraph (4) of subdivision (c).

31 (ii) Thereafter, in accordance with the application process.

32 (H) A qualified community development entity that issues
33 qualified equity investments shall notify RTCA of the names of
34 taxpayers that are eligible to utilize tax credits pursuant to this
35 section and any transfer of a qualified equity investment.

36 (6) (A) A qualified community development entity that issues
37 qualified equity investments shall submit a report to RTCA that
38 provides documentation as to the investment of at least 85 percent
39 of the funds being deployed within one year in qualified
40 low-income community investments in qualified active low-income

1 ~~community businesses located in California. Such report shall~~
2 ~~include all of the following:~~

3 ~~(i) A bank statement of such qualified community development~~
4 ~~entity evidencing each qualified low-income community~~
5 ~~investment.~~

6 ~~(ii) Evidence that such business was a qualified active~~
7 ~~low-income community business at the time of such qualified~~
8 ~~low-income community investment.~~

9 ~~(iii) Evidence that the community development entity complied~~
10 ~~with subparagraph (D) of paragraph (5).~~

11 ~~(iv) Any other information required by RTCA as being necessary~~
12 ~~to meet the requirements of this section.~~

13 ~~(B) Thereafter, the qualified community development entity~~
14 ~~shall submit an annual report to RTCA during the seven years~~
15 ~~following submittal of the report, pursuant to subparagraph (A).~~
16 ~~No annual report shall be due prior to the first anniversary of the~~
17 ~~initial credit allowance date. The report shall include, but is not~~
18 ~~limited to, the following:~~

19 ~~(i) The social, environmental, and economic impact the credit~~
20 ~~had on the low-income community during the report period and~~
21 ~~cumulatively.~~

22 ~~(ii) The amount of moneys used for qualified low-income~~
23 ~~investments in qualified low-income community businesses.~~

24 ~~(iii) The number of employment positions created and retained~~
25 ~~as a result of qualified low-income community investments and~~
26 ~~the average annual salary of such positions.~~

27 ~~(iv) The number of operating businesses assisted as a result of~~
28 ~~qualified low-income community investments, by industry and~~
29 ~~number of employees.~~

30 ~~(v) Number of owner-occupied real estate projects.~~

31 ~~(vi) Location of each qualified low-income community business~~
32 ~~assisted by a qualified low-income community investment.~~

33 ~~(vii) Summary of the outcomes of each of the revenue impact~~
34 ~~assessments undertaken by the qualified community development~~
35 ~~entity during the year.~~

36 ~~(viii) Any other information requested by RTCA.~~

37 ~~(e) (1) In the case where the credit allowed by this section~~
38 ~~exceeds the tax described in Section 12201, the excess may be~~
39 ~~carried over to reduce that tax in the following year, and the six~~
40 ~~succeeding years if necessary, until the credit is exhausted.~~

1 ~~(2) A taxpayer allowed a credit under this section for a qualified~~
2 ~~equity investment shall not be eligible for any other credit under~~
3 ~~this part with respect to that investment.~~

4 ~~(3) The credit allowed under this section may be in addition to~~
5 ~~any credit allowed under Section 45D of the Internal Revenue~~
6 ~~Code.~~

7 ~~(f) RTCA shall annually report on its Internet Web site the~~
8 ~~information provided by low-income community development~~
9 ~~entities and on the geographic distribution of the qualified active~~
10 ~~low-income community businesses assisted.~~

11 ~~(g) (1) The Insurance Commissioner may prescribe any rules~~
12 ~~or regulations that may be necessary or appropriate to implement~~
13 ~~this section. The Insurance Commissioner shall have access to any~~
14 ~~documentation held by RTCA relative to the application and~~
15 ~~reporting of a qualified community development entity.~~

16 ~~(2) A qualified community development entity shall provide~~
17 ~~RTCA with the name, address, and tax identification number of~~
18 ~~each investor and entity for which a qualified equity investment~~
19 ~~was designated by the qualified community development entity;~~
20 ~~pursuant to this section. RTCA shall provide this information to~~
21 ~~the Insurance Commissioner in a manner determined by the~~
22 ~~Insurance Commissioner.~~

23 ~~(h) (1) The credit authorized by this section shall only be~~
24 ~~allowed for those taxable years for which moneys are appropriated~~
25 ~~to RTCA to administer the California New Markets Tax Credit~~
26 ~~pursuant to 18410.3 for that taxable year. The appropriation shall~~
27 ~~specifically identify the California New Markets Tax Credit.~~

28 ~~(2) For those taxable years for which those moneys are~~
29 ~~appropriated pursuant to paragraph (1), RTCA shall post notice~~
30 ~~of the appropriation on the homepage of its Internet Web site and~~
31 ~~send notice of such appropriation to the Secretary of State and the~~
32 ~~Legislative Counsel.~~

33 ~~(i) This section shall be repealed on December 1, 2022.~~

34 ~~SEC. 3. Section 17053.9 is added to the Revenue and Taxation~~
35 ~~Code, to read:~~

36 ~~17053.9. (a) There is hereby created the California New~~
37 ~~Markets Tax Credit Program as provided in this section, Section~~
38 ~~12283, and Section 23622.9. The purpose of this program is to~~
39 ~~stimulate private sector investment in lower income communities~~
40 ~~by providing a tax incentive to community and economic~~

1 development entities that can be leveraged by the entity to attract
2 private sector investment that in turn will be deployed by providing
3 financing and technical assistance to small and medium-sized
4 businesses and the development of commercial, industrial, and
5 community development projects, including, but not limited to,
6 facilities for nonprofit service organizations, light manufacturing,
7 and mixed-use and transit-oriented development. RTCA shall
8 administer this program as provided in this section, Section 12283,
9 and Section 23622.9.

10 (b) (1) For taxable years beginning on or after January 1, 2017,
11 and before January 1, 2022, and subject to subdivision (h), there
12 shall be allowed as a credit against the “net tax,” as defined in
13 Section 17039, in an amount determined in accordance with Section
14 45D of the Internal Revenue Code, relating to the new markets tax
15 credit, as modified in this section.

16 (2) For the purposes of this section, “RTCA” means the
17 Responsible Tax Credit Administrator, as designated by the
18 Governor.

19 (e) Section 45D of the Internal Revenue Code is modified as
20 follows:

21 (1) Section 45D(a)(2) of the Internal Revenue Code, relating to
22 applicable percentage, is modified by substituting for “(A) 5
23 percent with respect to the first 3 credit allowance dates, and (B)
24 6 percent with respect to the remainder of the credit allowance
25 dates” with the following:

26 (A) Zero percent with respect to the first two credit allowance
27 dates.

28 (B) Seven percent with respect to the third credit allowance
29 date.

30 (C) Eight percent with respect to the remainder of the credit
31 allowance dates.

32 (2) (A) Section 45D(c)(1) of the Internal Revenue Code, relating
33 to qualified community development entity, is modified to only
34 include a qualified community development entity, that is certified
35 by the Secretary of the Treasury, and its subsidiary qualified
36 community development entities that have entered into an
37 allocation agreement with the Community Development Financial
38 Institutions Fund of the United States Treasury Department, with
39 respect to credits authorized by Section 45D of the Internal

1 Revenue Code, that includes California within the service area and
2 is dated on or after January 1, 2012.

3 ~~(B) Section 45D(e)(2) of the Internal Revenue Code, relating~~
4 ~~to special rules for certain organizations, is modified to only~~
5 ~~include a specialized small business investment company or~~
6 ~~community development financial institution that entered into an~~
7 ~~allocation agreement with the Community Development Financial~~
8 ~~Institutions Fund of the United States Treasury Department, with~~
9 ~~respect to credits authorized by Section 45D of the Internal~~
10 ~~Revenue Code, that includes California within the service area and~~
11 ~~is dated on or after January 1, 2012.~~

12 ~~(3) The term “qualified active low-income community business,”~~
13 ~~as defined in Section 45D(d)(2) of the Internal Revenue Code, is~~
14 ~~modified as follows:~~

15 ~~(A) By substituting “any low-income community in California”~~
16 ~~for “any low-income community” every place it appears in Section~~
17 ~~45D of the Internal Revenue Code.~~

18 ~~(B) A qualified active low-income community business shall~~
19 ~~not include any business that derives, or projects to derive, 15~~
20 ~~percent or more of its annual revenue from the rental or sale of~~
21 ~~real estate. This exclusion does not apply to a business that is~~
22 ~~controlled by, or under common control with, another business if~~
23 ~~the second business: (i) does not derive or project to derive 15~~
24 ~~percent or more of its annual revenue from the rental or sale of~~
25 ~~real estate; and (ii) is the primary tenant of the real estate leased~~
26 ~~from the first business.~~

27 ~~(C) A qualified active low-income community business shall~~
28 ~~only include a business that, at the time the initial investment is~~
29 ~~made, has 250 or fewer employees and is located in one or more~~
30 ~~California low-income communities. The operating business shall~~
31 ~~meet all other conditions of a qualified active low-income~~
32 ~~community business, except as modified by this paragraph. This~~
33 ~~requirement does not apply to a business that is located on land~~
34 ~~and is controlled by, or under common control with, a federally~~
35 ~~recognized tribe.~~

36 ~~(D) A qualified active low-income community business shall~~
37 ~~only include a business located in census tracts with a poverty rate~~
38 ~~greater than 30 percent, or census tracts, if located within a~~
39 ~~nonmetropolitan area, with a median family income that does not~~
40 ~~exceed 60 percent of median family income for this state, or census~~

1 tracts, if located within a metropolitan area, with a median family
2 income that does not exceed 60 percent of the greater of the
3 California median family income or the metropolitan area median
4 family income, or census tracts with unemployment rates at least
5 1.5 times the national average.

6 ~~(E) A qualified active low-income community business shall
7 not include any business that operates or derives revenues from
8 the operation of a country club, gaming establishment, massage
9 parlor, liquor store, or golf course.~~

10 ~~(F) A qualified active low-income community business shall
11 not include a sexually oriented business. A “sexually oriented
12 business” means a nightclub, bar, restaurant, or similar commercial
13 enterprise that provides for an audience of two or more individuals
14 live nude entertainment or live nude performances where the nudity
15 is a function of everyday business operations and where nudity is
16 a planned and intentional part of the entertainment or performance.
17 “Nude” means clothed in a manner that leaves uncovered or visible,
18 through less than fully opaque clothing, any portion of the genitals
19 or, in the case of a female, any portion of the breasts below the
20 top of the areola of the breasts.~~

21 ~~(G) A qualified active low-income community business shall
22 not include a charter school.~~

23 ~~(4) Section 45D(f) of the Internal Revenue Code, relating to
24 national limitation on amount of investments designated, is
25 modified as follows:~~

26 ~~(A) The following shall apply in lieu of the provisions of Section
27 45D(f)(1) of the Internal Revenue Code: The aggregate amount
28 of qualified equity investments that may be allocated in any
29 calendar year for purposes of this section, Section 12283, and
30 Section 23622.9 shall be forty million dollars (\$40,000,000) per
31 calendar year. The allocation of any undesignated qualified equity
32 investments shall be returned to RTCA by March 1 of the year
33 following allocation and the value of the undesignated qualified
34 equity investment shall be available for allocation in the following
35 calendar years in accordance with the application process. Any
36 qualified equity investment attributable to recaptured credits shall
37 be available to RTCA on March 1 of the year following recapture
38 and shall be available for allocation in the following calendar years
39 in accordance with clause (ii) of subparagraph (B) of paragraph
40 (5). Reallocated qualified equity investments attributable to~~

1 ~~recapture credits shall not count against the annual or the~~
2 ~~cumulative limit.~~

3 ~~(B) The references to “the Secretary” in Section 45D(f)(2) of~~
4 ~~the Internal Revenue Code, relating to allocation of limitation, is~~
5 ~~modified to read “RTCA.”~~

6 ~~(C) The last sentence of Section 45D(f)(3) of the Internal~~
7 ~~Revenue Code, relating to carryover of unused limitation, shall~~
8 ~~not apply.~~

9 ~~(5) (A) Section 45D(g)(2)(B) of the Internal Revenue Code,~~
10 ~~relating to credit recapture amount, is modified to substitute~~
11 ~~“Section 19101 of this code” for “Section 6621.”~~

12 ~~(B) Section 45D(g)(3) of the Internal Revenue Code, relating~~
13 ~~to recapture event, is modified to add the following:~~

14 ~~(i) The qualified community development entity fails to comply~~
15 ~~with subparagraph (D) of paragraph (5) of subdivision (d). In this~~
16 ~~case, recapture shall be 100 percent of the credit.~~

17 ~~(ii) RTCA shall establish a process, in consultation with the~~
18 ~~Franchise Tax Board, for the recapture of credits allowed under~~
19 ~~this section from the entity that claimed the credit on a return.~~

20 ~~(iii) Recaptured qualified equity investments revert back to~~
21 ~~RTCA and shall be reissued. The reissue shall not count toward~~
22 ~~the annual or cumulative allocation limitation. The reissue shall~~
23 ~~be done in the following order:~~

24 ~~(I) First, pro rata to applicants whose qualified equity~~
25 ~~investment allocations were reduced pursuant to subparagraph (E)~~
26 ~~of paragraph (5) of subdivision (d) by the annual allocation~~
27 ~~limitation.~~

28 ~~(II) Thereafter, in accordance with the application process.~~

29 ~~(iv) Enforcement of each of the recapture provisions shall be~~
30 ~~subject to a six-month cure period.~~

31 ~~(d) (1) RTCA shall adopt guidelines necessary or appropriate~~
32 ~~to carry out its responsibilities with respect to the allocation,~~
33 ~~monitoring, and management of the tax credit program authorized~~
34 ~~by this section.~~

35 ~~(2) (A) RTCA shall establish and impose reasonable fees upon~~
36 ~~entities that apply for the allocation pursuant to this subdivision~~
37 ~~that in the aggregate defray the cost of reviewing applications for~~
38 ~~the program. RTCA may impose other reasonable fees upon entities~~
39 ~~that receive the allocation pursuant to this subdivision that in the~~
40 ~~aggregate defray the cost of administering the program.~~

- 1 ~~(B) The fees collected shall be deposited in the California New~~
2 ~~Markets Tax Credit Fund established in Section 18410.3.~~
- 3 ~~(3) In developing guidelines, RTCA shall adopt an allocation~~
4 ~~process that does all of the following:~~
- 5 ~~(A) Creates an equitable distribution process that ensures that~~
6 ~~low-income community populations across the state have an~~
7 ~~opportunity to benefit from the program.~~
- 8 ~~(B) Sets minimum organizational capacity standards that~~
9 ~~applicants must meet in order to receive an allocation of authority~~
10 ~~to designate qualified equity investments, including, but not limited~~
11 ~~to, its business strategy, targeted community outcomes,~~
12 ~~capitalization strategy, and management capacity.~~
- 13 ~~(C) Considers the qualified community development entity's~~
14 ~~prior qualified low-income community investments under Section~~
15 ~~45D of the Internal Revenue Code.~~
- 16 ~~(D) Considers the qualified community development entity's~~
17 ~~prior qualified low-income community investments under this~~
18 ~~section, including subparagraph (D) of paragraph (5).~~
- 19 ~~(4) (A) Subject to subdivision (h), RTCA shall begin accepting~~
20 ~~applications on or before May 15, 2017, and shall award authority~~
21 ~~to designate qualified equity investments annually through 2021.~~
- 22 ~~(B) In the instance where RTCA determines that an application~~
23 ~~is incomplete, the qualified community development entity shall~~
24 ~~be given five business days to provide the omitted information.~~
- 25 ~~(5) (A) In the 2017 awards cycle, RTCA shall award authority~~
26 ~~to designate qualified equity investments to qualified community~~
27 ~~development entities described in paragraph (2) of subdivision (c)~~
28 ~~in the order applications are received by RTCA. Applications~~
29 ~~received on the same day shall be deemed to have been received~~
30 ~~simultaneously.~~
- 31 ~~(B) In the 2018 to 2021 award cycles, inclusive, at least 60~~
32 ~~percent of the authority to designate qualified equity investments~~
33 ~~shall be awarded pursuant to subparagraph (A). At the discretion~~
34 ~~of RTCA, a higher percentage of authority to designate qualified~~
35 ~~equity investments may be awarded pursuant to subparagraph (A).~~
- 36 ~~(C) RTCA shall award up to 40 percent of the authority to~~
37 ~~designate qualified equity investments in the 2018 to 2021,~~
38 ~~inclusive, award cycles, to qualified community development~~
39 ~~entities on a competitive basis that meets the following criteria:~~

1 ~~(i) Awards shall be reviewed using blind scoring and a review~~
2 ~~committee that is composed of community development finance~~
3 ~~practitioners and members having demonstrated experience in~~
4 ~~assessing organizational business strategy, community outcomes,~~
5 ~~capitalization strategy, and management capacity.~~

6 ~~(ii) A member of the review committee shall not have a financial~~
7 ~~interest, which includes, but is not limited to, asking, consenting,~~
8 ~~or agreeing to receive any commission, emolument, gratuity,~~
9 ~~money, property, or thing of value for his or her own use, benefit,~~
10 ~~or personal advantage for procuring or endeavoring to procure for~~
11 ~~any person, partnership, joint venture, association, or corporation~~
12 ~~any qualified equity investment or other assistance from any~~
13 ~~applicant.~~

14 ~~(iii) Priority shall be provided to both of the following:~~

15 ~~(I) Applications that commit to addressing the hardest to serve~~
16 ~~and undercapitalized lower income populations.~~

17 ~~(H) Applications that support neighborhood revitalization~~
18 ~~strategies driven by local grassroots stakeholders in multiple~~
19 ~~low-income communities across one or more regions or the state.~~
20 ~~These applications shall demonstrate how their investment activity~~
21 ~~provides a scalable economic development model.~~

22 ~~(D) For applications described in subparagraphs (A) and (B),~~
23 ~~applications for awards shall include a commitment to make at~~
24 ~~least 15 percent of qualified community development investments~~
25 ~~to a qualified community development entity with the assistance~~
26 ~~of a nonprofit organization as documented by a cooperation~~
27 ~~agreement that states the terms and conditions of that assistance.~~
28 ~~For the purposes of this subparagraph, the following shall apply:~~

29 ~~(i) A qualified community development entity shall be certified~~
30 ~~under Section 45D of the Internal Revenue Code but has not~~
31 ~~received a federal New Markets Tax Credit allocation on or after~~
32 ~~January 1, 2012, and has either a local service area that includes~~
33 ~~one or more California communities or a California statewide~~
34 ~~service area, but excluding qualified community development~~
35 ~~entities with a national service area.~~

36 ~~(ii) A nonprofit organization shall meet all of the following~~
37 ~~requirements: Is tax exempt under Section 23701, is registered~~
38 ~~with the Registry of Charitable Trusts, which is administered by~~
39 ~~the Attorney General, has articles of incorporation or articles of~~
40 ~~organization that state the primary mission of the organization is~~

1 focused on improving the economic well-being of low-income
2 communities or individuals, and has bylaws that provide that the
3 organization maintains accountability to residents of low-income
4 communities through their representation on any governing board
5 or on an advisory board of the nonprofit organization.

6 ~~(E) (i) For applications described in subparagraph (A), in the~~
7 ~~event requests for authority to designate qualified equity~~
8 ~~investments exceed the applicable annual allocation limitation,~~
9 ~~RTCA shall certify, consistent with remaining qualified equity~~
10 ~~investment capacity, qualified equity investments of applicants in~~
11 ~~proportionate percentages based upon the ratio of the amount of~~
12 ~~qualified equity investments requested in such applications to the~~
13 ~~total amount of qualified equity investments requested in all such~~
14 ~~applications received on the same day.~~

15 ~~(ii) If a pending request cannot be fully certified due to this~~
16 ~~limit, RTCA shall certify the portion that may be certified unless~~
17 ~~the qualified community development entity elects to withdraw~~
18 ~~its request rather than receive partial certification.~~

19 ~~(F) An approved applicant may transfer all or a portion of its~~
20 ~~certified qualified equity investment authority to its controlling~~
21 ~~entity or any subsidiary qualified community development entity~~
22 ~~of the controlling entity, provided that the applicant and the~~
23 ~~transferee notify RTCA within 30 calendar days of such transfer~~
24 ~~and include the information required in the application with respect~~
25 ~~to such transferee with such notice. The transferee shall be subject~~
26 ~~to the same rules, requirements, and limitations applicable to the~~
27 ~~transferor.~~

28 ~~(G) Within 200 calendar days of RTCA sending notice of~~
29 ~~certification, the qualified community development entity or any~~
30 ~~transferee, under subparagraph (F), shall issue the qualified equity~~
31 ~~investment and receive cash in the amount of the certified amount.~~
32 ~~The qualified community development entity or transferee, under~~
33 ~~subparagraph (F), shall provide RTCA with evidence of the receipt~~
34 ~~of the cash investment within 205 calendar days of the applicant~~
35 ~~receiving notice of certification. If the qualified community~~
36 ~~development entity or any transferee, under subparagraph (F), does~~
37 ~~not receive the cash investment and issue the qualified equity~~
38 ~~investment within 200 calendar days of RTCA sending the~~
39 ~~certification notice, the certification shall lapse and the entity may~~
40 ~~not issue the qualified equity investment without reapplying to~~

1 RTCA for certification. Lapsed certifications revert back to RTCA
2 and shall be reissued in the following order:

3 (i) First, pro rata to applicants whose qualified equity investment
4 allocations were reduced pursuant to subparagraph (E) under the
5 annual allocation limitation of forty million dollars (\$40,000,000)
6 in paragraph (4) of subdivision (c).

7 (ii) Thereafter, in accordance with the application process.

8 (H) A qualified community development entity that issues
9 qualified equity investments shall notify RTCA of the names of
10 taxpayers that are eligible to utilize tax credits pursuant to this
11 section and any transfer of a qualified equity investment.

12 (6) (A) A qualified community development entity that issues
13 qualified equity investments shall submit a report to RTCA that
14 provides documentation as to the investment of at least 85 percent
15 of the funds being deployed within one year in qualified
16 low-income community investments in qualified active low-income
17 community businesses located in California. Such report shall
18 include all of the following:

19 (i) A bank statement of such qualified community development
20 entity evidencing each qualified low-income community
21 investment.

22 (ii) Evidence that such business was a qualified active
23 low-income community business at the time of such qualified
24 low-income community investment.

25 (iii) Evidence that the community development entity complied
26 with subparagraph (D) of paragraph (5).

27 (iv) Any other information required by RTCA as being necessary
28 to meet the requirements of this section.

29 (B) Thereafter, the qualified community development entity
30 shall submit an annual report to RTCA during the seven years
31 following submittal of the report, pursuant to subparagraph (A).
32 No annual report shall be due prior to the first anniversary of the
33 initial credit allowance date. The report shall include, but is not
34 limited to, the following:

35 (i) The social, environmental, and economic impact the credit
36 had on the low-income community during the report period and
37 cumulatively.

38 (ii) The amount of moneys used for qualified low-income
39 investments in qualified low-income community businesses.

- 1 ~~(iii) The number of employment positions created and retained~~
2 ~~as a result of qualified low-income community investments and~~
3 ~~the average annual salary of such positions.~~
4 ~~(iv) The number of operating businesses assisted as a result of~~
5 ~~qualified low-income community investments, by industry and~~
6 ~~number of employees.~~
7 ~~(v) Number of owner-occupied real estate projects.~~
8 ~~(vi) Location of each qualified low-income community business~~
9 ~~assisted by a qualified low-income community investment.~~
10 ~~(vii) Summary of the outcomes of each of the revenue impact~~
11 ~~assessments undertaken by the qualified community development~~
12 ~~entity during the year.~~
13 ~~(viii) Any other information requested by RTCA.~~
14 ~~(e) (1) In the case where the credit allowed by this section~~
15 ~~exceeds the “net tax,” the excess may be carried over to reduce~~
16 ~~the “net tax” in the following year, and the six succeeding years~~
17 ~~if necessary, until the credit is exhausted.~~
18 ~~(2) A taxpayer allowed a credit under this section for a qualified~~
19 ~~equity investment shall not be eligible for any other credit under~~
20 ~~this part with respect to that investment.~~
21 ~~(3) The credit allowed under this section may be in addition to~~
22 ~~any credit allowed under Section 45D of the Internal Revenue~~
23 ~~Code.~~
24 ~~(f) RTCA shall annually report on its Internet Web site the~~
25 ~~information provided by low-income community development~~
26 ~~entities and on the geographic distribution of the qualified active~~
27 ~~low-income community businesses assisted.~~
28 ~~(g) (1) The Franchise Tax Board may prescribe any rules or~~
29 ~~regulations that may be necessary or appropriate to implement this~~
30 ~~section. The Franchise Tax Board shall have access to any~~
31 ~~documentation held by RTCA relative to the application and~~
32 ~~reporting of a qualified community development entity.~~
33 ~~(2) A qualified community development entity shall provide~~
34 ~~RTCA with the name, address, and tax identification number of~~
35 ~~each investor and entity for which a qualified equity investment~~
36 ~~was designated by the qualified community development entity,~~
37 ~~pursuant to this section. RTCA shall provide this information to~~
38 ~~the Franchise Tax Board in a manner determined by the Franchise~~
39 ~~Tax Board.~~

1 ~~(h) (1) The credit authorized by this section shall only be~~
2 ~~allowed for those taxable years for which moneys are appropriated~~
3 ~~to RTCA to administer the California New Markets Tax Credit~~
4 ~~pursuant to 18410.3 for that taxable year. The appropriation shall~~
5 ~~specifically identify the California New Markets Tax Credit.~~

6 ~~(2) For those taxable years for which those moneys are~~
7 ~~appropriated pursuant to paragraph (1), RTCA shall post notice~~
8 ~~of the appropriation on the homepage of its Internet Web site and~~
9 ~~send notice of such appropriation to the Secretary of State and the~~
10 ~~Legislative Counsel.~~

11 ~~(i) This section shall be repealed on December 1, 2022.~~

12 ~~SEC. 4. Section 18410.3 is added to the Revenue and Taxation~~
13 ~~Code, to read:~~

14 ~~18410.3. (a) The California New Markets Tax Credit Fund is~~
15 ~~hereby established in the State Treasury.~~

16 ~~(b) Upon annual appropriation, moneys in the fund shall be used~~
17 ~~for the purposes described in subdivision (d) of Section 12283,~~
18 ~~subdivision (d) of Section 17053.9, and subdivision (d) of Section~~
19 ~~23622.9.~~

20 ~~SEC. 5. Section 23622.9 is added to the Revenue and Taxation~~
21 ~~Code, to read:~~

22 ~~23622.9. (a) There is hereby created the California New~~
23 ~~Markets Tax Credit Program as provided in this section, Section~~
24 ~~12283, and Section 17053.9. The purpose of this program is to~~
25 ~~stimulate private sector investment in lower income communities~~
26 ~~by providing a tax incentive to community and economic~~
27 ~~development entities that can be leveraged by the entity to attract~~
28 ~~private sector investment that in turn will be deployed by providing~~
29 ~~financing and technical assistance to small and medium-sized~~
30 ~~businesses and the development of commercial, industrial, and~~
31 ~~community development projects, including, but not limited to,~~
32 ~~facilities for nonprofit service organizations, light manufacturing,~~
33 ~~and mixed-use and transit-oriented development. RTCA shall~~
34 ~~administer this program as provided in this section, Section 12283,~~
35 ~~and Section 17053.9.~~

36 ~~(b) (1) For taxable years beginning on or after January 1, 2017,~~
37 ~~and before January 1, 2022, and subject to subdivision (h), there~~
38 ~~shall be allowed as a credit against the "tax," as defined in Section~~
39 ~~23036, in an amount determined in accordance with Section 45D~~

1 of the Internal Revenue Code, relating to the new markets tax
2 credit, as modified in this section.

3 (2) For the purposes of this section, “RTCA” means the
4 Responsible Tax Credit Administrator, as designated by the
5 Governor.

6 (e) Section 45D of the Internal Revenue Code is modified as
7 follows:

8 (1) Section 45D(a)(2) of the Internal Revenue Code, relating to
9 applicable percentage, is modified by substituting for “(A) 5
10 percent with respect to the first 3 credit allowance dates, and (B)
11 6 percent with respect to the remainder of the credit allowance
12 dates” with the following:

13 (A) Zero percent with respect to the first two credit allowance
14 dates.

15 (B) Seven percent with respect to the third credit allowance
16 date.

17 (C) Eight percent with respect to the remainder of the credit
18 allowance dates.

19 (2) (A) Section 45D(e)(1) of the Internal Revenue Code, relating
20 to qualified community development entity, is modified to only
21 include a qualified community development entity, that is certified
22 by the Secretary of the Treasury, and its subsidiary qualified
23 community development entities that have entered into an
24 allocation agreement with the Community Development Financial
25 Institutions Fund of the United States Treasury Department, with
26 respect to credits authorized by Section 45D of the Internal
27 Revenue Code, that includes California within the service area and
28 is dated on or after January 1, 2012.

29 (B) Section 45D(e)(2) of the Internal Revenue Code, relating
30 to special rules for certain organizations, is modified to only
31 include a specialized small business investment company or
32 community development financial institution that entered into an
33 allocation agreement with the Community Development Financial
34 Institutions Fund of the United States Treasury Department, with
35 respect to credits authorized by Section 45D of the Internal
36 Revenue Code, that includes California within the service area and
37 is dated on or after January 1, 2012.

38 (3) The term “qualified active low-income community business,”
39 as defined in Section 45D(d)(2) of the Internal Revenue Code, is
40 modified as follows:

1 (A) ~~By substituting “any low-income community in California”~~
2 ~~for “any low-income community” every place it appears in Section~~
3 ~~45D of the Internal Revenue Code.~~

4 (B) ~~A qualified active low-income community business shall~~
5 ~~not include any business that derives, or projects to derive, 15~~
6 ~~percent or more of its annual revenue from the rental or sale of~~
7 ~~real estate. This exclusion does not apply to a business that is~~
8 ~~controlled by, or under common control with, another business if~~
9 ~~the second business: (i) does not derive or project to derive 15~~
10 ~~percent or more of its annual revenue from the rental or sale of~~
11 ~~real estate; and (ii) is the primary tenant of the real estate leased~~
12 ~~from the first business.~~

13 (C) ~~A qualified active low-income community business shall~~
14 ~~only include a business that, at the time the initial investment is~~
15 ~~made, has 250 or fewer employees and is located in one or more~~
16 ~~California low-income communities. The operating business shall~~
17 ~~meet all other conditions of a qualified active low-income~~
18 ~~community business, except as modified by this paragraph. This~~
19 ~~requirement does not apply to a business that is located on land~~
20 ~~and is controlled by, or under common control with, a federally~~
21 ~~recognized tribe.~~

22 (D) ~~A qualified active low-income community business shall~~
23 ~~only include a business located in census tracts with a poverty rate~~
24 ~~greater than 30 percent, or census tracts, if located within a~~
25 ~~nonmetropolitan area, with a median family income that does not~~
26 ~~exceed 60 percent of median family income for this state, or census~~
27 ~~tracts, if located within a metropolitan area, with a median family~~
28 ~~income that does not exceed 60 percent of the greater of the~~
29 ~~California median family income or the metropolitan area median~~
30 ~~family income, or census tracts with unemployment rates at least~~
31 ~~1.5 times the national average.~~

32 (E) ~~A qualified active low-income community business shall~~
33 ~~not include any business that operates or derives revenues from~~
34 ~~the operation of a country club, gaming establishment, massage~~
35 ~~parlor, liquor store, or golf course.~~

36 (F) ~~A qualified active low-income community business shall~~
37 ~~not include a sexually oriented business. A “sexually oriented~~
38 ~~business” means a nightclub, bar, restaurant, or similar commercial~~
39 ~~enterprise that provides for an audience of two or more individuals~~
40 ~~live nude entertainment or live nude performances where the nudity~~

1 is a function of everyday business operations and where nudity is
2 a planned and intentional part of the entertainment or performance.
3 “Nude” means clothed in a manner that leaves uncovered or visible,
4 through less than fully opaque clothing, any portion of the genitals
5 or, in the case of a female, any portion of the breasts below the
6 top of the areola of the breasts.

7 (G) A qualified active low-income community business shall
8 not include a charter school.

9 (4) Section 45D(f) of the Internal Revenue Code, relating to
10 national limitation on amount of investments designated, is
11 modified as follows:

12 (A) The following shall apply in lieu of the provisions of Section
13 45D(f)(1) of the Internal Revenue Code: The aggregate amount
14 of qualified equity investments that may be allocated in any
15 calendar year for purposes of this section, Section 12283, and
16 Section 17053.9 shall be forty million dollars (\$40,000,000) per
17 calendar year. The allocation of any undesignated qualified equity
18 investments shall be returned to RTCA by March 1 of the year
19 following allocation and the value of the undesignated qualified
20 equity investment shall be available for allocation in the following
21 calendar years in accordance with the application process. Any
22 qualified equity investment attributable to recaptured credits shall
23 be available to RTCA on March 1 of the year following recapture
24 and shall be available for allocation in the following calendar years
25 in accordance with clause (ii) of subparagraph (B) of paragraph
26 (5). Reallocated qualified equity investments attributable to
27 recapture credits shall not count against the annual or the
28 cumulative limit.

29 (B) The references to “the Secretary” in Section 45D(f)(2) of
30 the Internal Revenue Code, relating to allocation of limitation, is
31 modified to read “RTCA.”

32 (C) The last sentence of Section 45D(f)(3) of the Internal
33 Revenue Code, relating to carryover of unused limitation, shall
34 not apply.

35 (5) (A) Section 45D(g)(2)(B) of the Internal Revenue Code,
36 relating to credit recapture amount, is modified to substitute
37 “Section 19101 of this code” for “Section 6621.”

38 (B) Section 45D(g)(3) of the Internal Revenue Code, relating
39 to recapture event, is modified to add the following:

- 1 ~~(i) The qualified community development entity fails to comply~~
2 ~~with subparagraph (D) of paragraph (5) of subdivision (d). In this~~
3 ~~case, recapture shall be 100 percent of the credit.~~
- 4 ~~(ii) RTCA shall establish a process, in consultation with the~~
5 ~~Franchise Tax Board, for the recapture of credits allowed under~~
6 ~~this section from the entity that claimed the credit on a return.~~
- 7 ~~(iii) Recaptured qualified equity investments revert back to~~
8 ~~RTCA and shall be reissued. The reissue shall not count toward~~
9 ~~the annual or cumulative allocation limitation. The reissue shall~~
10 ~~be done in the following order:~~
 - 11 ~~(I) First, pro rata to applicants whose qualified equity investment~~
12 ~~allocations were reduced pursuant to subparagraph (E) of paragraph~~
13 ~~(5) of subdivision (d) by the annual allocation limitation.~~
 - 14 ~~(II) Thereafter, in accordance with the application process.~~
- 15 ~~(iv) Enforcement of each of the recapture provisions shall be~~
16 ~~subject to a six-month cure period.~~
- 17 ~~(d) (1) RTCA shall adopt guidelines necessary or appropriate~~
18 ~~to carry out its responsibilities with respect to the allocation,~~
19 ~~monitoring, and management of the tax credit program authorized~~
20 ~~by this section.~~
- 21 ~~(2) (A) RTCA shall establish and impose reasonable fees upon~~
22 ~~entities that apply for the allocation pursuant to this subdivision~~
23 ~~that in the aggregate defray the cost of reviewing applications for~~
24 ~~the program. RTCA may impose other reasonable fees upon entities~~
25 ~~that receive the allocation pursuant to this subdivision that in the~~
26 ~~aggregate defray the cost of administering the program.~~
- 27 ~~(B) The fees collected shall be deposited in the California New~~
28 ~~Markets Tax Credit Fund established in Section 18410.3.~~
- 29 ~~(3) In developing guidelines, RTCA shall adopt an allocation~~
30 ~~process that does all of the following:~~
 - 31 ~~(A) Creates an equitable distribution process that ensures that~~
32 ~~low-income community populations across the state have an~~
33 ~~opportunity to benefit from the program.~~
 - 34 ~~(B) Sets minimum organizational capacity standards that~~
35 ~~applicants must meet in order to receive an allocation of authority~~
36 ~~to designate qualified equity investments, including, but not limited~~
37 ~~to, its business strategy, targeted community outcomes,~~
38 ~~capitalization strategy, and management capacity.~~

1 ~~(C) Considers the qualified community development entity’s~~
2 ~~prior qualified low-income community investments under Section~~
3 ~~45D of the Internal Revenue Code.~~

4 ~~(D) Considers the qualified community development entity’s~~
5 ~~prior qualified low-income community investments under this~~
6 ~~section, including subparagraph (D) of paragraph (5).~~

7 ~~(4) (A) Subject to subdivision (h), RTCA shall begin accepting~~
8 ~~applications on or before May 15, 2017, and shall award authority~~
9 ~~to designate qualified equity investments annually through 2021.~~

10 ~~(B) In the instance where RTCA determines that an application~~
11 ~~is incomplete, the qualified community development entity shall~~
12 ~~be given five business days to provide the omitted information.~~

13 ~~(5) (A) In the 2017 awards cycle, RTCA shall award authority~~
14 ~~to designate qualified equity investments to qualified community~~
15 ~~development entities described in paragraph (2) of subdivision (c)~~
16 ~~in the order applications are received by RTCA. Applications~~
17 ~~received on the same day shall be deemed to have been received~~
18 ~~simultaneously.~~

19 ~~(B) In the 2018 to 2021 award cycles, inclusive, at least 60~~
20 ~~percent of the authority to designate qualified equity investments~~
21 ~~shall be awarded pursuant to subparagraph (A). At the discretion~~
22 ~~of RTCA, a higher percentage of authority to designate qualified~~
23 ~~equity investments may be awarded pursuant to subparagraph (A).~~

24 ~~(C) RTCA shall award up to 40 percent of the authority to~~
25 ~~designate qualified equity investments in the 2018 to 2021,~~
26 ~~inclusive, award cycles, to qualified community development~~
27 ~~entities on a competitive basis that meets the following criteria:~~

28 ~~(i) Awards shall be reviewed using blind scoring and a review~~
29 ~~committee that is composed of community development finance~~
30 ~~practitioners and members having demonstrated experience in~~
31 ~~assessing organizational business strategy, community outcomes,~~
32 ~~capitalization strategy, and management capacity.~~

33 ~~(ii) A member of the review committee shall not have a financial~~
34 ~~interest, which includes, but is not limited to, asking, consenting,~~
35 ~~or agreeing to receive any commission, emolument, gratuity,~~
36 ~~money, property, or thing of value for his or her own use, benefit,~~
37 ~~or personal advantage for procuring or endeavoring to procure for~~
38 ~~any person, partnership, joint venture, association, or corporation~~
39 ~~any qualified equity investment or other assistance from any~~
40 ~~applicant.~~

- 1 (iii) Priority shall be provided to both of the following:
- 2 (I) Applications that commit to addressing the hardest to serve
3 and undercapitalized lower income populations:
- 4 (II) Applications that support neighborhood revitalization
5 strategies driven by local grassroots stakeholders in multiple
6 low-income communities across one or more regions or the state.
7 These applications shall demonstrate how their investment activity
8 provides a scalable economic development model.
- 9 (D) For applications described in subparagraphs (A) and (B),
10 applications for awards shall include a commitment to make at
11 least 15 percent of qualified community development investments
12 to a qualified community development entity with the assistance
13 of a nonprofit organization as documented by a cooperation
14 agreement that states the terms and conditions of that assistance.
15 For the purposes of this subparagraph, the following shall apply:
- 16 (i) A qualified community development entity shall be certified
17 under Section 45D of the Internal Revenue Code but has not
18 received a federal New Markets Tax Credit allocation on or after
19 January 1, 2012, and has either a local service area that includes
20 one or more California communities or a California statewide
21 service area, but excluding qualified community development
22 entities with a national service area.
- 23 (ii) A nonprofit organization shall meet all of the following
24 requirements: Is tax exempt under Section 23701, is registered
25 with the Registry of Charitable Trusts, which is administered by
26 the Attorney General, has articles of incorporation or articles of
27 organization that state the primary mission of the organization is
28 focused on improving the economic well-being of low-income
29 communities or individuals, and has bylaws that provide that the
30 organization maintains accountability to residents of low-income
31 communities through their representation on any governing board
32 or on an advisory board of the nonprofit organization.
- 33 (E) (i) For applications described in subparagraph (A), in the
34 event requests for authority to designate qualified equity
35 investments exceed the applicable annual allocation limitation,
36 RTCA shall certify, consistent with remaining qualified equity
37 investment capacity, qualified equity investments of applicants in
38 proportionate percentages based upon the ratio of the amount of
39 qualified equity investments requested in such applications to the

1 total amount of qualified equity investments requested in all such
2 applications received on the same day.

3 (ii) ~~If a pending request cannot be fully certified due to this~~
4 ~~limit, RTCA shall certify the portion that may be certified unless~~
5 ~~the qualified community development entity elects to withdraw~~
6 ~~its request rather than receive partial certification.~~

7 ~~(F) An approved applicant may transfer all or a portion of its~~
8 ~~certified qualified equity investment authority to its controlling~~
9 ~~entity or any subsidiary qualified community development entity~~
10 ~~of the controlling entity, provided that the applicant and the~~
11 ~~transferee notify RTCA within 30 calendar days of such transfer~~
12 ~~and include the information required in the application with respect~~
13 ~~to such transferee with such notice. The transferee shall be subject~~
14 ~~to the same rules, requirements, and limitations applicable to the~~
15 ~~transferor.~~

16 ~~(G) Within 200 calendar days of RTCA sending notice of~~
17 ~~certification, the qualified community development entity or any~~
18 ~~transferee, under subparagraph (F), shall issue the qualified equity~~
19 ~~investment and receive cash in the amount of the certified amount.~~
20 ~~The qualified community development entity or transferee, under~~
21 ~~subparagraph (F), shall provide RTCA with evidence of the receipt~~
22 ~~of the cash investment within 205 calendar days of the applicant~~
23 ~~receiving notice of certification. If the qualified community~~
24 ~~development entity or any transferee, under subparagraph (F), does~~
25 ~~not receive the cash investment and issue the qualified equity~~
26 ~~investment within 200 calendar days of RTCA sending the~~
27 ~~certification notice, the certification shall lapse and the entity may~~
28 ~~not issue the qualified equity investment without reapplying to~~
29 ~~RTCA for certification. Lapsed certifications revert back to RTCA~~
30 ~~and shall be reissued in the following order:~~

31 ~~(i) First, pro rata to applicants whose qualified equity investment~~
32 ~~allocations were reduced pursuant to subparagraph (E) under the~~
33 ~~annual allocation limitation of forty million dollars (\$40,000,000)~~
34 ~~in paragraph (4) of subdivision (c).~~

35 ~~(ii) Thereafter, in accordance with the application process.~~

36 ~~(H) A qualified community development entity that issues~~
37 ~~qualified equity investments shall notify RTCA of the names of~~
38 ~~taxpayers that are eligible to utilize tax credits pursuant to this~~
39 ~~section and any transfer of a qualified equity investment.~~

1 ~~(6) (A) A qualified community development entity that issues~~
2 ~~qualified equity investments shall submit a report to RTCA that~~
3 ~~provides documentation as to the investment of at least 85 percent~~
4 ~~of the funds being deployed within one year in qualified~~
5 ~~low-income community investments in qualified active low-income~~
6 ~~community businesses located in California. Such report shall~~
7 ~~include all of the following:~~
8 ~~(i) A bank statement of such qualified community development~~
9 ~~entity evidencing each qualified low-income community~~
10 ~~investment.~~
11 ~~(ii) Evidence that such business was a qualified active~~
12 ~~low-income community business at the time of such qualified~~
13 ~~low-income community investment.~~
14 ~~(iii) Evidence that the community development entity complied~~
15 ~~with subparagraph (D) of paragraph (5).~~
16 ~~(iv) Any other information required by RTCA as being necessary~~
17 ~~to meet the requirements of this section.~~
18 ~~(B) Thereafter, the qualified community development entity~~
19 ~~shall submit an annual report to RTCA during the seven years~~
20 ~~following submittal of the report, pursuant to subparagraph (A).~~
21 ~~No annual report shall be due prior to the first anniversary of the~~
22 ~~initial credit allowance date. The report shall include, but is not~~
23 ~~limited to, the following:~~
24 ~~(i) The social, environmental, and economic impact the credit~~
25 ~~had on the low-income community during the report period and~~
26 ~~cumulatively.~~
27 ~~(ii) The amount of moneys used for qualified low-income~~
28 ~~investments in qualified low-income community businesses.~~
29 ~~(iii) The number of employment positions created and retained~~
30 ~~as a result of qualified low-income community investments and~~
31 ~~the average annual salary of such positions.~~
32 ~~(iv) The number of operating businesses assisted as a result of~~
33 ~~qualified low-income community investments, by industry and~~
34 ~~number of employees.~~
35 ~~(v) Number of owner-occupied real estate projects.~~
36 ~~(vi) Location of each qualified low-income community business~~
37 ~~assisted by a qualified low-income community investment.~~
38 ~~(vii) Summary of the outcomes of each of the revenue impact~~
39 ~~assessments undertaken by the qualified community development~~
40 ~~entity during the year.~~

1 ~~(viii) Any other information requested by RTCA.~~

2 ~~(e) (1) In the case where the credit allowed by this section~~
3 ~~exceeds the “tax,” the excess may be carried over to reduce the~~
4 ~~“tax” in the following year, and the six succeeding years if~~
5 ~~necessary, until the credit is exhausted.~~

6 ~~(2) A taxpayer allowed a credit under this section for a qualified~~
7 ~~equity investment shall not be eligible for any other credit under~~
8 ~~this part with respect to that investment.~~

9 ~~(3) The credit allowed under this section may be in addition to~~
10 ~~any credit allowed under Section 45D of the Internal Revenue~~
11 ~~Code.~~

12 ~~(f) RTCA shall annually report on its Internet Web site the~~
13 ~~information provided by low-income community development~~
14 ~~entities and on the geographic distribution of the qualified active~~
15 ~~low-income community businesses assisted.~~

16 ~~(g) (1) The Franchise Tax Board may prescribe any rules or~~
17 ~~regulations that may be necessary or appropriate to implement this~~
18 ~~section. The Franchise Tax Board shall have access to any~~
19 ~~documentation held by RTCA relative to the application and~~
20 ~~reporting of a qualified community development entity.~~

21 ~~(2) A qualified community development entity shall provide~~
22 ~~RTCA with the name, address, and tax identification number of~~
23 ~~each investor and entity for which a qualified equity investment~~
24 ~~was designated by the qualified community development entity,~~
25 ~~pursuant to this section. RTCA shall provide this information to~~
26 ~~the Franchise Tax Board in a manner determined by the Franchise~~
27 ~~Tax Board.~~

28 ~~(h) (1) The credit authorized by this section shall only be~~
29 ~~allowed for those taxable years for which moneys are appropriated~~
30 ~~to RTCA to administer the California New Markets Tax Credit~~
31 ~~pursuant to 18410.3 for that taxable year. The appropriation shall~~
32 ~~specifically identify the California New Markets Tax Credit.~~

33 ~~(2) For those taxable years for which those moneys are~~
34 ~~appropriated pursuant to paragraph (1), RTCA shall post notice~~
35 ~~of the appropriation on the homepage of its Internet Web site and~~
36 ~~send notice of such appropriation to the Secretary of State and the~~
37 ~~Legislative Counsel.~~

38 ~~(i) This section shall be repealed on December 1, 2022.~~

1 ~~SEC. 6. For the purposes of complying with Section 41 of the~~
2 ~~Revenue and Taxation Code, the Legislature finds and declares as~~
3 ~~follows:~~

4 ~~(a) Specific goals, purposes, and objectives: attract private sector~~
5 ~~investment in lower income communities in California.~~

6 ~~(b) Performance indicators:~~

7 ~~(1) Amount of qualified low-income community investments~~
8 ~~issued.~~

9 ~~(2) Amount of dollars deployed in qualified low-income~~
10 ~~community investments.~~

11 ~~(3) Number of operating businesses assisted as a result of~~
12 ~~qualified low-income community investments.~~

13 ~~(4) Number of employment positions created and retained as a~~
14 ~~result of qualified low-income community investments and the~~
15 ~~average annual salary of those positions.~~

16 ~~(e) Data collection requirements and baseline measurements:~~

17 ~~(1) The baseline measurements include:~~

18 ~~(A) The amount of tax credits issued in the year.~~

19 ~~(B) The unemployment rate of the area.~~

20 ~~(C) The poverty rate of the area.~~

21 ~~(2) Data to collect includes:~~

22 ~~(A) The amount of tax credits issued in the year.~~

23 ~~(B) The number of operating businesses in a low-income~~
24 ~~community assisted.~~

25 ~~(C) The number of jobs created and retained as a result of~~
26 ~~qualified low-income community investments.~~

27 ~~SEC. 7. The provisions of this act are severable. If any~~
28 ~~provision of this act or its application is held invalid, that invalidity~~
29 ~~shall not affect other provisions or applications that can be given~~
30 ~~effect without the invalid provision or application.~~

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