

ASSEMBLY BILL

No. 2728

Introduced by Assembly Member Atkins

February 19, 2016

An act to amend Sections 926.1 and 12939.2 of the Insurance Code, and to amend Sections 12209, 17053.57, and 23657 of the Revenue and Taxation Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2728, as introduced, Atkins. Insurance: community development investments.

(1) Existing law requires each admitted insurer with annual premiums written in California equal to or less than \$100,000,000 to provide information to the Insurance Commissioner by July 1, 2016, on all of its community development investments, community development infrastructure investments, and green investments, as defined, in California. Existing law defines a community development investment as certain projects, developments, or activities that, among other things, benefit low- or moderate-income individuals or families. Existing law defines community development infrastructure as California public debt where all or a portion of the debt has as its primary purpose community development for, or that directly benefits, low- or moderate-income communities consistent with the types of projects, developments, or activities specified as community development investments. Existing law defines a green investment, among other things, as specified projects offering energy efficiency improvements and renewable energy generation. Existing law requires the insurer to list investments that are high-impact, which is an investment that is innovative, responsive to community needs, not routinely provided by an insurer, or has a high

degree of positive impact on the economic welfare of low- or moderate-income individuals, families, or communities in urban or rural areas of California.

This bill would instead define a community development investment as certain projects, developments, or activities that, among other things, benefit low- to moderate-income individuals or families. The bill would include investments into reservation-based communities and investments into rural areas, as defined, in community development investments. The bill would instead define community development infrastructure as all California debt where all or a portion of the debt has as its primary purpose community development for, or that directly benefits, low- to moderate-income communities. This bill would include water and waste management and sustainable agriculture projects in the definition of a green investment. The bill would instead define a high-impact investment as an investment that provides at least 50% social or environmental benefit to low- to moderate-income individuals, families or communities in the state. The bill would also define “diverse fund managers” as investment management companies that are at least 51% owned by women, veterans, or minorities, or a combination of persons in those groups.

(2) Existing law authorizes the commissioner, until January 1, 2020, to establish and appoint a California Organized Investment Network (COIN) Advisory Board, as specified.

This bill would extend the commissioner’s authorization to establish and appoint the advisory board until January 1, 2027.

(3) Existing law imposes an annual tax on the gross premiums of an insurer, as defined, doing business in this state at specified rates. 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. Existing law provides that if a qualified investment is reduced before the end of the 60th month, but not below \$50,000, an amount equal to 20% of the total reduction for the year shall be added to the tax imposed on the taxpayer.

This bill would extend the provisions relating to the authorization of the credit and certification by the California Organized Investment

Network until January 1, 2027. The bill would require priority for the tax credit to be given to insurance company investors. The bill would delete the provision described above relating to a reduction of a qualified investment before the end of the 60th month.

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

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

1 SECTION 1. Section 926.1 of the Insurance Code is amended
2 to read:

3 926.1. As used in this article, the following terms shall have
4 the following meanings:

5 (a) “Area median income” (AMI) means either of the following:

6 (1) The median family income for the Metropolitan Statistical
7 Area (MSA), if a person or geography is located in an MSA, or
8 for the metropolitan division, if a person or geography is located
9 in an MSA that has been subdivided into metropolitan divisions.

10 (2) The statewide nonmetropolitan median family income, if a
11 person or geography is located outside an MSA.

12 (b) “Community development investment” means an investment
13 where all or a portion of the investment has as its primary purpose
14 community development for, or that directly benefits, California
15 low-~~or~~ to moderate-income individuals, families, or communities.
16 “Community development investment” includes, but is not limited
17 to, investments in California in the following:

18 (1) Affordable housing, including multifamily rental and
19 ownership housing, for low-~~or~~ to moderate-income individuals
20 or families.

21 (2) Community facilities or community services providers
22 (including providers of education, health, or social services)
23 directly benefiting low-~~or~~ to moderate-income individuals,
24 families, or communities.

25 (3) Economic development that demonstrates benefits, including,
26 but not limited to, job creation, retention, or improvement, or
27 provision of needed capital, to low-~~or~~ to moderate-income
28 individuals, families, or communities, including urban or rural
29 communities, or businesses or nonprofit community service
30 organizations that serve these communities.

1 (4) Activities that revitalize or stabilize low—~~or~~ to
2 moderate-income communities.

3 (5) Investments in or through California Organized Investment
4 Network (COIN)-certified community development financial
5 institutions (CDFIs) and investments made pursuant to the
6 requirements of federal, state, or local community development
7 investment programs or community development investment tax
8 incentive programs, ~~including green investments~~, if these
9 investments directly benefit low—~~or~~ to moderate-income
10 individuals, families, and communities and are consistent with this
11 article.

12 (6) Community development infrastructure investments.

13 (7) Investments in a commercial property or properties located
14 in low—~~or~~ to moderate-income geographical areas ~~and that~~ are
15 consistent with this article.

16 (8) *Investments into reservation-based communities.*
17 *“Reservation-based” means an area of land managed by a Native*
18 *American tribe under the jurisdiction of the federal Bureau of*
19 *Indian Affairs, provided that the tribe is named on the most current*
20 *list of “Indian Entities Recognized and Eligible to Receive Services*
21 *from the Bureau of Indian Affairs,” or successor document, as*
22 *published in the Federal Register by the Bureau of Indian Affairs.*

23 (9) *Investments into rural areas. “Rural area” means any open*
24 *country or any place, town, village, or city which by itself and*
25 *taken together with any other places, towns, villages, or cities that*
26 *it is part of, or associated with, has either a population not*
27 *exceeding 10,000 persons or has a population not exceeding 20,000*
28 *persons and is contained within a nonmetropolitan area. “Rural*
29 *area” also means any open country, place, town, village, or city*
30 *located within a Standard Metropolitan Statistical Area if the*
31 *population of that area does not exceed 20,000 persons and that*
32 *area is not part of, or associated with, urban area and is rural in*
33 *character.*

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

1 (d) “Diverse fund managers” means investment management
2 companies (including corporations, partnerships, LLCs, trust, and
3 other special purpose vehicles) that are at least 51 percent owned
4 by women, veterans, minorities, or a combination of persons in
5 those groups.

6 ~~(d)~~

7 (e) “Geography” means a census tract delineated by the United
8 States Bureau of the Census in the most recent decennial census.

9 ~~(e)~~

10 (f) “Green investments” means investments that emphasize
11 renewable energy projects, economic development, and affordable
12 housing focused on infill sites so as to reduce the degree of
13 automobile dependency and promote the use and reuse of existing
14 urbanized lands supplied with infrastructure for the purpose of
15 accommodating new growth and jobs. “Green investments” also
16 means investments that can help communities grow through new
17 capital investment in the maintenance and rehabilitation of existing
18 infrastructure so that the reuse and reinvention of city centers and
19 existing transportation corridors and community space, including
20 projects offering energy efficiency improvements and renewable
21 energy generation, including, but not limited to, solar and wind
22 power, *water and waste management, sustainable agriculture,*
23 *mixed-use development, affordable housing opportunities,*
24 *multimodal transportation systems, and transit-oriented*
25 *development, can advance economic development, jobs, and*
26 *housing.*

27 ~~(f)~~

28 (g) “High-impact investments” means investments that ~~are~~
29 ~~innovative, responsive to community needs, not routinely provided~~
30 ~~by insurers, or have a high degree of positive impact on the~~
31 ~~economic welfare of low- or provide at least 50 percent social or~~
32 ~~environmental benefit to low- to moderate-income individuals,~~
33 ~~families, or communities in urban or rural areas of California.~~

34 ~~(g)~~

35 (h) “Insurer” means an admitted insurer as defined in Section
36 24, including the State Compensation Insurance Fund, or a
37 domestic fraternal benefit society as defined in Section 10990.

38 ~~(h)~~

1 (i) “Investment” means a lawful equity or debt investment, or
2 loan, or deposit obligation, or other investment or investment
3 transaction allowed by the Insurance Code.

4 ~~(i)~~

5 (j) “Low-income” means an individual income that is less than
6 50 percent of the AMI, or a median family income that is less than
7 50 percent of the AMI in the case of a geographical area.

8 ~~(j)~~

9 (k) “MSA” means a metropolitan statistical area as defined by
10 the Director of the Office of Management and Budget.

11 ~~(k)~~

12 (l) “Moderate-income” means an individual income that is at
13 least 50 percent but less than 80 percent of the AMI, or a median
14 family income that is at least 50 percent but less than 80 percent
15 of the AMI in the case of a geographical area.

16 ~~(l)~~

17 (m) “Nonmetropolitan area” means any area that is not located
18 in an MSA.

19 SEC. 2. Section 12939.2 of the Insurance Code is amended to
20 read:

21 12939.2. (a) The commissioner may establish and appoint a
22 California Organized Investment Network Advisory Board.

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

24 (1) “Commissioner” means the Insurance Commissioner of this
25 state.

26 (2) “Board” means the California Organized Investment
27 Network Advisory Board.

28 (3) “Licensed attorney” means an attorney who resides in this
29 state who has successfully passed the California bar examination
30 and has been admitted to practice in this state or has otherwise
31 been licensed to practice law in this state by the State Bar of
32 California.

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

36 (1) A licensed attorney practicing insurance law.

37 (2) A member of the public, appointed by the Speaker of the
38 Assembly.

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

- 1 (4) A member of a consumer advocacy group.
- 2 (5) An affordable housing practitioner.
- 3 (6) A local economic development practitioner.
- 4 (7) A member of a financial institution or a community
- 5 development financial institution.
- 6 (8) A representative with experience seeking investments for
- 7 low- to moderate-income or rural communities.
- 8 (d) The board shall elect, from among its members, a chair.
- 9 (e) The term of each member shall be for two years.
- 10 (f) The board shall have all of the following powers and duties:
- 11 (1) To advise the California Organized Investment Network, or
- 12 any successor thereof, on the best methods to increase the level of
- 13 insurance industry capital in safe and sound investments while
- 14 providing fair returns to investors and social benefits to
- 15 underserved communities.
- 16 (2) To meet a minimum of three or more times per year, or as
- 17 deemed necessary by the commissioner.
- 18 (3) To facilitate contacts among executives at insurance
- 19 companies, community-based organizations, and community
- 20 development financial institutions.
- 21 (4) To recommend programmatic guidelines, but not specific
- 22 allocations of the tax credit amount, to the California Organized
- 23 Investment Network program.
- 24 (g) The members of the board shall not receive compensation
- 25 from the state for their services under this section but, when called
- 26 to attend a meeting of the board, may be reimbursed for their actual
- 27 and necessary expenses incurred in connection with the meeting.
- 28 (h) This section shall remain in effect only until January 1, ~~2020~~,
- 29 2027, and as of that date is repealed, unless a later enacted statute,
- 30 that is enacted before January 1, ~~2020~~, 2027, deletes or extends
- 31 that date.

32 SEC. 3. Section 12209 of the Revenue and Taxation Code is
33 amended to read:

34 12209. (a) For each year beginning on or after January 1, 1999,
35 and before January 1, ~~2017~~, 2027, there shall be allowed as a credit
36 against the amount of tax, as defined in Section 28 of Article XIII
37 of the California Constitution, an amount equal to 20 percent of
38 the amount of each qualified investment made by a taxpayer during
39 the taxable year into a community development financial institution

1 that is certified by the Department of Insurance, California
2 Organized Investment Network, or any successor thereof.

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

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

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

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

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

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

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

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

16 (5) *Priority shall be given to insurance company investors over*
17 *all other tax credit investors.*

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

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

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

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

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

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

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

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

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

- 4 (i) Name of the taxpayer.
- 5 (ii) Postal address of the taxpayer, or residential address of the
6 taxpayer if the taxpayer is an individual.
- 7 (iii) Phone number of the taxpayer.
- 8 (iv) Email address of the taxpayer.
- 9 (v) The taxpayer’s California company identification number
10 for tax administration purposes.

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

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

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

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

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

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

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

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

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

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

38 (3) Provide an annual listing to the State Board of Equalization,
39 in the form or manner agreed upon by the State Board of
40 Equalization and the Department of Insurance, California

1 Organized Investment Network, or its successor, of the taxpayers
2 who were issued certificates, their respective National Association
3 of Insurance Commissioners company number and employer's tax
4 identification number, the amount of the qualified investment made
5 by each taxpayer, and the total amount of qualified investments.

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

9 (h) For purposes of this section:

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

30 (2) "Community development financial institution" means a
31 private financial institution located in this state that is certified by
32 the Department of Insurance, California Organized Investment
33 Network, or its successor, that, consistent with the legislative
34 findings, declarations, and intent set forth in Section 12939 of the
35 Insurance Code, has community development as its primary
36 mission, and that lends in urban, rural, or reservation-based
37 communities in this state. A community development financial
38 institution may include a community development bank, a
39 community development loan fund, a community development
40 credit union, a microenterprise fund, a community development

1 corporation-based lender, or a community development venture
2 fund.

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

10 ~~(2) If a qualified investment is reduced before the end of the~~
11 ~~60th month, but not below fifty thousand dollars (\$50,000), there~~
12 ~~shall be added to the “tax,” as defined in Section 28 of Article XIII~~
13 ~~of the California Constitution, for the taxable year in which the~~
14 ~~reduction occurs, an amount equal to 20 percent of the total~~
15 ~~reduction for the year.~~

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

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

24 (l) On or before June 30, 2016, the Legislative Analyst’s Office
25 shall submit a report to the Legislature, in compliance with Section
26 9795 of the Government Code, on the effects of the tax credits
27 allowed under this section, Section 17053.57, and Section 23657,
28 with a focus on employment in low-to-moderate income and rural
29 areas, and on the benefits of these tax credits to low-to-moderate
30 income and rural persons.

31 (m) This section shall remain in effect only until December 1,
32 ~~2017, 2027,~~ and as of that date is repealed.

33 SEC. 4. Section 17053.57 of the Revenue and Taxation Code
34 is amended to read:

35 17053.57. (a) For each taxable year beginning on or after
36 January 1, 1997, and before January 1, ~~2017, 2027,~~ there shall be
37 allowed as a credit against the amount of “net tax,” as defined in
38 Section 17039, an amount equal to 20 percent of the amount of
39 each qualified investment made by a taxpayer during the taxable
40 year into a community development financial institution that is

1 certified by the Department of Insurance, California Organized
2 Investment Network, or any successor thereof.

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

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

16 (3) (A) The aggregate amount of qualified investments made
17 by all taxpayers pursuant to this section, Section 12209, and Section
18 23657 shall not exceed fifty million dollars (\$50,000,000) for each
19 calendar year. However, if the aggregate amount of qualified
20 investments made in any calendar year is less than fifty million
21 dollars (\$50,000,000), the difference may be carried over to the
22 next year, and any succeeding year during which this section
23 remains in effect, and added to the aggregate amount authorized
24 for those years.

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

38 (C) Each year, 10 percent of the annual aggregate amount of
39 qualified investments shall be reserved for investment amounts of
40 less than or equal to two hundred thousand dollars (\$200,000). If,

1 after October 1, there remains an unallocated portion of the amount
2 reserved for investments of less than or equal to two hundred
3 thousand dollars (\$200,000), then qualified investments in excess
4 of two hundred thousand dollars (\$200,000) may be eligible for
5 that remaining unallocated portion.

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

10 (5) *Priority shall be given to insurance company investors over*
11 *all other tax credit investors.*

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

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

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

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

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

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

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

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

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

37 (i) Name of the taxpayer.

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

40 (iii) Phone number of the taxpayer.

- 1 (iv) Email address of the taxpayer.
- 2 (v) The taxpayer’s identification number, or in the case of a
- 3 partnership, the taxpayer identification numbers of all the partners
- 4 for tax administration purposes.
- 5 (B) The information provided in subparagraph (A) shall be used
- 6 only for internal purposes by the Department of Insurance,
- 7 California Organized Investment Network, or its successor, and
- 8 any network or its successor shall limit all public disclosure of that
- 9 information to the name of the taxpayer only.
- 10 (4) Provide an annual listing to the Franchise Tax Board, in the
- 11 form and manner agreed upon by the Franchise Tax Board and the
- 12 Department of Insurance, California Organized Investment
- 13 Network, or its successor, of the names and taxpayer identification
- 14 numbers of any taxpayer who makes any withdrawal or partial
- 15 withdrawal of a qualified investment before the expiration of 60
- 16 months from the date of the qualified investment.
- 17 (5) Submit reports to the Department of Insurance, California
- 18 Organized Investment Network, or any successor thereof, as
- 19 required pursuant to subdivision (a) of Section 12939.1 of the
- 20 Insurance Code.
- 21 (d) (1) The Insurance Commissioner may develop instructions,
- 22 procedures, and standards for applications, and for administering
- 23 the criteria for the evaluation of applications under this section.
- 24 The Insurance Commissioner may, from time to time, adopt,
- 25 amend, or repeal regulations to implement the provisions of this
- 26 section.
- 27 (2) The initial adoption of the regulations implementing this
- 28 section shall be deemed to be an emergency and necessary in order
- 29 to address a situation calling for immediate action to avoid serious
- 30 harm to the public peace, health, safety, or general welfare.
- 31 (3) Notwithstanding Chapter 3.5 (commencing with Section
- 32 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
- 33 any emergency regulation adopted or amended by the Insurance
- 34 Commissioner pursuant to this section shall remain in effect until
- 35 amended or repealed by the department.
- 36 (e) The California Organized Investment Network may certify
- 37 investments for the credit allowed by this section on or before
- 38 January 1, ~~2017~~, 2027, but not after that date.

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

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

18 (2) Accept and evaluate applications for certification from a
19 community development financial institution on behalf of the
20 taxpayer and issue certificates to taxpayers in an aggregate amount
21 that shall not exceed the limit specified in subdivision (b), with
22 highest priority granted to those applications where the intended
23 use of the investments has the greatest aggregate benefit for
24 low-to-moderate income areas or households or rural areas or
25 households. The certificate shall include the amount eligible to be
26 made as an investment that qualifies for the credit and the total
27 amount of the credit to which the taxpayer is entitled for the taxable
28 year. Applications for tax credits shall be accepted and evaluated
29 throughout the year. The Insurance Commissioner shall establish
30 tax credit issuance cycles throughout the year as necessary in order
31 to issue tax credit certificates to those applications granted the
32 highest priority.

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

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

4 (g) For purposes of this section:

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

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

38 (h) ~~(4)~~—If a qualified investment is withdrawn before the end
39 of the 60th month and not reinvested in another community
40 development financial institution within 60 days, there shall be

1 added to the “net tax,” as defined in Section 17039, for the taxable
2 year in which the withdrawal occurs, the entire amount of any
3 credit previously allowed under this section.

4 ~~(2) If a qualified investment is reduced before the end of the~~
5 ~~60th month, but not below fifty thousand dollars (\$50,000), there~~
6 ~~shall be added to the “net tax,” as defined in Section 17039, for~~
7 ~~the taxable year in which the reduction occurs, an amount equal~~
8 ~~to 20 percent of the total reduction for the taxable year.~~

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

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

17 (k) On or before June 30, 2016, the Legislative Analyst’s Office
18 shall submit a report to the Legislature, in compliance with Section
19 9795 of the Government Code, on the effects of the tax credits
20 allowed under this section, Section 12209, and Section 23657,
21 with a focus on employment in low-to-moderate income and rural
22 areas, and on the benefits of these tax credits to low-to-moderate
23 income and rural persons.

24 (l) This section shall remain in effect only until December 1,
25 ~~2017, 2027~~, and as of that date is repealed.

26 SEC. 5. Section 23657 of the Revenue and Taxation Code is
27 amended to read:

28 23657. (a) For each taxable year beginning on or after January
29 1, 1997, and before January 1, ~~2017, 2027~~, there shall be allowed
30 as a credit against the amount of “tax,” as defined in Section 23036,
31 an amount equal to 20 percent of the amount of each qualified
32 investment made by a taxpayer during the taxable year into a
33 community development financial institution that is certified by
34 the Department of Insurance, California Organized Investment
35 Network, or any successor thereof.

36 (b) (1) Notwithstanding any other provision of this part, a credit
37 shall not be allowed under this section unless the California
38 Organized Investment Network, or its successor within the
39 Department of Insurance, certifies that the investment described
40 in subdivision (a) qualifies for the credit under this section and

1 certifies the total amount of the credit allocated to the taxpayer
2 pursuant to this section.

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

9 (3) (A) The aggregate amount of qualified investments made
10 by all taxpayers pursuant to this section, Section 12209, and Section
11 17053.57 shall not exceed fifty million dollars (\$50,000,000) for
12 each calendar year. However, if the aggregate amount of qualified
13 investments made in any calendar year is less than fifty million
14 dollars (\$50,000,000), the difference may be carried over to the
15 next year, and any succeeding year during which this section
16 remains in effect, and added to the aggregate amount authorized
17 for those years.

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

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

39 (4) Priority among housing applications shall be given to
40 applications that support affordable rental housing, housing for

1 veterans, mortgages for community-based residential programs,
2 and self-help housing ahead of single-family owned housing.

3 (5) *Priority shall be given to insurance company investors over*
4 *all other tax credit investors.*

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

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

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

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

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

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

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

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

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

30 (i) Name of the taxpayer.

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

33 (iii) Phone number of the taxpayer.

34 (iv) Email address of the taxpayer.

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

39 (B) The information provided in subparagraph (A) shall be used
40 only for internal purposes by the Department of Insurance,

1 California Organized Investment Network, or its successor, and
2 any public disclosure of that information shall be limited to the
3 name of the taxpayer only.

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

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

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

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

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

27 (3) Notwithstanding Chapter 3.5 (commencing with Section
28 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
29 any emergency regulation adopted or amended by the Insurance
30 Commissioner pursuant to this section shall remain in effect until
31 amended or repealed by the department.

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

35 (1) Accept and evaluate applications for certification from
36 financial institutions and issue certificates that the applicant is a
37 community development financial institution qualified to receive
38 qualified investments. To receive a certificate, an applicant shall
39 satisfy the Department of Insurance, California Organized
40 Investment Network, or any successor thereof, that it meets the

1 specific requirements to be a community development financial
2 institution for this state program as defined in paragraph (2) of
3 subdivision (g). The certificate may be issued for a specified period
4 of time, and may include reasonable conditions to effectuate the
5 intent of this section. The Insurance Commissioner may suspend
6 or revoke a certification, after affording the institution notice and
7 the opportunity to be heard, if the commissioner finds that an
8 institution no longer meets the requirement for certification.

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

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

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

34 (g) For purposes of this section:

35 (1) "Qualified investment" means an investment that is a deposit
36 or loan that does not earn interest, or an equity investment, or an
37 equity-like debt instrument that conforms to the specifications for
38 these instruments as prescribed by the United States Department
39 of the Treasury, Community Development Financial Institutions
40 Fund, or its successor, or, in the absence of that prescription, as

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

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

28 (h) ~~(4)~~ If a qualified investment is withdrawn before the end
29 of the 60th month and not reinvested in another community
30 development financial institution within 60 days, there shall be
31 added to the “tax,” as defined in Section 23036, for the taxable
32 year in which the withdrawal occurs, the entire amount of any
33 credit previously allowed under this section.

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

39 (i) In the case where the credit allowed by this section exceeds
40 the “tax,” the excess may be carried over to reduce the “tax” for

1 the next four taxable years, or until the credit has been exhausted,
2 whichever occurs first.

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

7 (k) On or before June 30, 2016, the Legislative Analyst's Office
8 shall submit a report to the Legislature, in compliance with Section
9 9795 of the Government Code, on the effects of the tax credits
10 allowed under this section, Section 12209, and Section 17053.57,
11 with a focus on employment in low-to-moderate income and rural
12 areas, and on the benefits of these tax credits to low-to-moderate
13 income and rural persons.

14 (l) This section shall remain in effect only until December 1,
15 ~~2017~~, 2027, and as of that date is repealed.

O