

AMENDED IN SENATE AUGUST 19, 2016

AMENDED IN ASSEMBLY APRIL 25, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2728

Introduced by Assembly Member Atkins

February 19, 2016

An act to amend ~~Sections 926.1 and 12939.2~~ *Section 926.1* 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 amended, 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~~ *low-to-moderate income* individuals or families. The bill would include investments in reservation-based communities and investments in 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~~ *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 is innovative, responsive to community needs, not routinely provided by an insurer, and provides at least 50% social or environmental benefit to ~~low-to-moderate-income~~ *low-to-moderate income* individuals, families, or communities in the state. The bill would also define “diverse investment managers” as investment management organizations, including, but not limited to, corporations, groups and persons within corporations, partnerships, LLCs, and other special purpose vehicles that are either located in, or actively make and hold investments in, California and whose investment managers are comprised of at least 51% 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, 2022.~~

~~(3)~~

(2) 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 in 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. Existing law also provides that if a qualified investment is withdrawn before the end of the 60th month and not reinvested in another community development financial institution within 60 days, the entire amount of any credit previously allowed for that taxable year is required to 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, ~~2022~~ 2018. 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 and would instead require that the provision regarding withdrawal, without reinvestment, of a qualified investment also apply when a qualified investment is reduced.

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. It is the intent of the Legislature that, upon
- 2 fulfillment of the requirements of Section 926.2 of the Insurance
- 3 Code by the Department of Insurance related to the California
- 4 Organized Investment Network program, there shall be future
- 5 reporting requirements for insurers doing business in California
- 6 to report to the department through the Community Investment
- 7 Survey Data Call on community development investments,
- 8 community development infrastructure investments, green
- 9 investments, and investments with diverse investment managers.
- 10 SEC. 2. Section 926.1 of the Insurance Code is amended to
- 11 read:
- 12 926.1. As used in this article, the following terms shall have
- 13 the following meanings:
- 14 (a) "Area median income" (AMI) means either of the following:

- 1 (1) The median family income for the Metropolitan Statistical
2 Area (MSA), if a person or geography is located in an MSA, or
3 for the metropolitan division, if a person or geography is located
4 in an MSA that has been subdivided into metropolitan divisions.
- 5 (2) The statewide nonmetropolitan median family income, if a
6 person or geography is located outside an MSA.
- 7 (b) “Community development investment” means an investment
8 where all or a portion of the investment has as its primary purpose
9 community development for, or that directly benefits, California
10 low- to moderate-income individuals, families, or communities.
11 “Community development investment” includes, but is not limited
12 to, investments in California in the following:
 - 13 (1) Affordable housing, including multifamily rental and
14 ownership housing, for low- to moderate-income individuals or
15 families.
 - 16 (2) Community facilities or community services providers
17 (including providers of education, health, or social services)
18 directly benefiting low- to moderate-income individuals, families,
19 or communities.
 - 20 (3) Economic development that demonstrates benefits, including,
21 but not limited to, job creation, retention, or improvement, or
22 provision of needed capital, to low- to moderate-income
23 individuals, families, or communities, including urban or rural
24 communities, or businesses or nonprofit community service
25 organizations that serve these communities.
 - 26 (4) Activities that revitalize or stabilize low- to moderate-income
27 communities.
 - 28 (5) Investments in or through California Organized Investment
29 Network (COIN)-certified community development financial
30 institutions (CDFIs) and investments made pursuant to the
31 requirements of federal, state, or local community development
32 investment programs or community development investment tax
33 incentive programs, if these investments directly benefit low- to
34 moderate-income individuals, families, and communities and are
35 consistent with this article.
 - 36 (6) Community development infrastructure investments.
 - 37 (7) Investments in a commercial property or properties located
38 in low- to moderate-income geographical areas that are consistent
39 with this article.

1 (8) Investments in reservation-based communities.
2 “Reservation-based” means an area of land managed by a Native
3 American tribe under the jurisdiction of the federal Bureau of
4 Indian Affairs, provided that the tribe is named on the most current
5 list of “Indian Entities Recognized and Eligible to Receive Services
6 from the Bureau of Indian Affairs,” or successor document, as
7 published in the Federal Register by the Bureau of Indian Affairs.

8 (9) Investments in rural areas. “Rural area” means any open
9 country or any place, town, village, or city which by itself and
10 taken together with any other places, towns, villages, or cities that
11 it is part of, or associated with, has either a population not
12 exceeding 10,000 persons or has a population not exceeding 20,000
13 persons and is contained within a nonmetropolitan area. “Rural
14 area” also means any open country, place, town, village, or city
15 located within a Standard Metropolitan Statistical Area if the
16 population of that area does not exceed 20,000 persons and that
17 area is not part of, or associated with, an urban area and is rural in
18 character.

19 (c) “Community development infrastructure” means California
20 public debt (including all debt issued by the State of California or
21 a California state or local government agency) where all or a
22 portion of the debt has as its primary purpose community
23 development for, or that directly benefits, low- to moderate-income
24 communities and is consistent with subdivision (b).

25 (d) “Diverse investment managers” means investment
26 management organizations, including, but not limited to,
27 corporations, groups and persons within corporations, partnerships,
28 LLCs, and other special purpose vehicles that are either located
29 in, or actively make and hold investments in, California and whose
30 investment managers are comprised of at least 51 percent women,
31 veterans, or minorities, or a combination of persons in those groups.

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

34 (f) “Green investments” means investments that emphasize
35 renewable energy projects, economic development, and affordable
36 housing focused on infill sites so as to reduce the degree of
37 automobile dependency and promote the use and reuse of existing
38 urbanized lands supplied with infrastructure for the purpose of
39 accommodating new growth and jobs. “Green investments” also
40 means investments that can help communities grow through new

1 capital investment in the maintenance and rehabilitation of existing
2 infrastructure so that the reuse and reinvention of city centers and
3 existing transportation corridors and community space, including
4 projects offering energy efficiency improvements and renewable
5 energy generation, including, but not limited to, solar and wind
6 power, water and waste management, sustainable agriculture,
7 mixed-use development, affordable housing opportunities,
8 multimodal transportation systems, and transit-oriented
9 development, can advance economic development, jobs, and
10 housing.

11 (g) “High-impact investments” means investments that are
12 innovative, responsive to community needs, not routinely provided
13 by insurers, and provide at least 50 percent social or environmental
14 benefit to low- to moderate-income individuals, families, or
15 communities in California.

16 (h) “Insurer” means an admitted insurer as defined in Section
17 24, including the State Compensation Insurance Fund, or a
18 domestic fraternal benefit society as defined in Section 10990.

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

22 (j) “Low-income” means an individual income that is less than
23 50 percent of the AMI, or a median family income that is less than
24 50 percent of the AMI in the case of a geographical area.

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

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

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

33 ~~SEC. 3. Section 12939.2 of the Insurance Code is amended to~~
34 ~~read:~~

35 ~~12939.2. (a) The commissioner may establish and appoint a~~
36 ~~California Organized Investment Network Advisory Board.~~

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

38 ~~(1) “Commissioner” means the Insurance Commissioner of this~~
39 ~~state.~~

1 ~~(2) “Board” means the California Organized Investment~~
2 ~~Network Advisory Board.~~

3 ~~(3) “Licensed attorney” means an attorney who resides in this~~
4 ~~state who has successfully passed the California bar examination~~
5 ~~and has been admitted to practice in this state or has otherwise~~
6 ~~been licensed to practice law in this state by the State Bar of~~
7 ~~California.~~

8 ~~(e) The board shall include the commissioner, or his or her~~
9 ~~designee, three executives in the insurance investment industry,~~
10 ~~and one volunteer from each of the following categories:~~

11 ~~(1) A licensed attorney practicing insurance law.~~

12 ~~(2) A member of the public, appointed by the Speaker of the~~
13 ~~Assembly.~~

14 ~~(3) A member of the public, appointed by the Senate Committee~~
15 ~~on Rules.~~

16 ~~(4) A member of a consumer advocacy group.~~

17 ~~(5) An affordable housing practitioner.~~

18 ~~(6) A local economic development practitioner.~~

19 ~~(7) A member of a financial institution or a community~~
20 ~~development financial institution.~~

21 ~~(8) A representative with experience seeking investments for~~
22 ~~low- to moderate-income or rural communities.~~

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

24 ~~(e) The term of each member shall be for two years.~~

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

26 ~~(1) To advise the California Organized Investment Network, or~~
27 ~~any successor thereof, on the best methods to increase the level of~~
28 ~~insurance industry capital in safe and sound investments while~~
29 ~~providing fair returns to investors and social benefits to~~
30 ~~underserved communities.~~

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

33 ~~(3) To facilitate contacts among executives at insurance~~
34 ~~companies, community-based organizations, and community~~
35 ~~development financial institutions.~~

36 ~~(4) To recommend programmatic guidelines, but not specific~~
37 ~~allocations of the tax credit amount, to the California Organized~~
38 ~~Investment Network program.~~

39 ~~(g) The members of the board shall not receive compensation~~
40 ~~from the state for their services under this section but, when called~~

1 to attend a meeting of the board, may be reimbursed for their actual
2 and necessary expenses incurred in connection with the meeting.

3 ~~(h) This section shall remain in effect only until January 1, 2022,~~
4 ~~and as of that date is repealed, unless a later enacted statute, that~~
5 ~~is enacted before January 1, 2022, deletes or extends that date.~~

6 ~~SEC. 4.~~

7 *SEC. 3.* Section 12209 of the Revenue and Taxation Code is
8 amended to read:

9 12209. (a) For each year beginning on or after January 1, 1999,
10 and before January 1, ~~2022, 2018~~, there shall be allowed as a credit
11 against the amount of tax, as defined in Section 28 of Article XIII
12 of the California Constitution, an amount equal to 20 percent of
13 the amount of each qualified investment made by a taxpayer during
14 the taxable year into a community development financial institution
15 that is certified by the Department of Insurance, California
16 Organized Investment Network, or any successor thereof.

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

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

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

36 (3) (A) The aggregate amount of qualified investments made
37 by all taxpayers pursuant to this section, Section 17053.57, and
38 Section 23657 shall not exceed fifty million dollars (\$50,000,000)
39 for each calendar year. However, if the aggregate amount of
40 qualified investments made in any calendar year is less than fifty

1 million dollars (\$50,000,000), the difference may be carried over
2 to the next year, and any succeeding year during which this section
3 remains in effect, and added to the aggregate amount authorized
4 for those years.

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

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

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

30 (5) Priority shall be given to insurance company investors over
31 all other tax credit investors.

32 (d) 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 California company identification number
24 for tax administration purposes.

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

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

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

1 (e) The California Organized Investment Network may certify
2 investments for the credit allowed by this section on or before
3 January 1, ~~2022~~, 2018, but not after that date.

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

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

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

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

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

36 (2) Accept and evaluate applications for certification from any
37 community development financial institution on behalf of the
38 taxpayer and issue certificates to taxpayers in an aggregate amount
39 that shall not exceed the limit specified in subdivision (c), with
40 highest priority granted to those applications where the intended

1 use of the investments has the greatest aggregate benefit for
2 low-to-moderate income areas or households or rural areas or
3 households. The certificate shall include the amount eligible to be
4 made as an investment that qualifies for the credit and the total
5 amount of the credit to which the taxpayer is entitled for the year.
6 Applications for tax credits shall be accepted and evaluated
7 throughout the year. The Insurance Commissioner shall establish
8 tax credit issuance cycles throughout the year as necessary in order
9 to issue tax credit certificates to those applications granted the
10 highest priority.

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

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

22 (h) For purposes of this section:

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

1 economically disadvantaged communities and low-income people
2 in California.

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

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

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

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

31 (l) On or before June 30, 2016, the Legislative Analyst’s Office
32 shall submit a report to the Legislature, in compliance with Section
33 9795 of the Government Code, on the effects of the tax credits
34 allowed under this section, Section 17053.57, and Section 23657,
35 with a focus on employment in low-to-moderate income and rural
36 areas, and on the benefits of these tax credits to low-to-moderate
37 income and rural persons.

38 (m) This section shall remain in effect only until December 1,
39 ~~2022~~, 2018, and as of that date is repealed.

1 ~~SEC. 5.~~

2 *SEC. 4.* Section 17053.57 of the Revenue and Taxation Code
3 is amended to read:

4 17053.57. (a) For each taxable year beginning on or after
5 January 1, 1997, and before January 1, ~~2022~~, 2018, there shall be
6 allowed as a credit against the amount of “net tax,” as defined in
7 Section 17039, an amount equal to 20 percent of the amount of
8 each qualified investment made by a taxpayer during the taxable
9 year into a community development financial institution that is
10 certified by the Department of Insurance, California Organized
11 Investment Network, or any successor thereof.

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

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

25 (3) (A) The aggregate amount of qualified investments made
26 by all taxpayers pursuant to this section, Section 12209, and Section
27 23657 shall not exceed fifty million dollars (\$50,000,000) for each
28 calendar year. However, if the aggregate amount of qualified
29 investments made in any calendar year is less than fifty million
30 dollars (\$50,000,000), the difference may be carried over to the
31 next year, and any succeeding year during which this section
32 remains in effect, and added to the aggregate amount authorized
33 for those years.

34 (B) The total amount of qualified investments certified by the
35 California Organized Investment Network in any calendar year to
36 any one community development financial institution together
37 with its affiliates, as defined in Section 1215 of the Insurance Code,
38 shall not exceed 30 percent of the annual aggregate amount of
39 qualified investments certified by the California Organized
40 Investment Network. If, after October 1, the California Organized

1 Investment Network has determined that the availability of tax
2 credits exceed their demand, then a community development
3 financial institution that has been allocated 30 percent of the annual
4 aggregate amount of qualified investments shall become eligible
5 to apply to be certified for any remaining tax credits in that calendar
6 year.

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

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

19 (5) Priority shall be given to insurance company investors over
20 all other tax credit investors.

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

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

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

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

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

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

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

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

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

7 (i) Name of the taxpayer.

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

10 (iii) Phone number of the taxpayer.

11 (iv) Email address of the taxpayer.

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

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

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

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

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

37 (2) The initial adoption of the regulations implementing this
38 section shall be deemed to be an emergency and necessary in order
39 to address a situation calling for immediate action to avoid serious
40 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 (e) The California Organized Investment Network may certify
7 investments for the credit allowed by this section on or before
8 January 1, ~~2022~~, 2018, but not after that date.

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

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

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

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

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

11 (g) For purposes of this section:

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

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

1 community development loan fund, a community development
2 credit union, a microenterprise fund, a community development
3 corporation-based lender, or a community development venture
4 fund.

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

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

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

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

26 (l) This section shall remain in effect only until December 1,
27 ~~2022~~, 2018, and as of that date is repealed.

28 ~~SEC. 6.~~

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

31 23657. (a) For each taxable year beginning on or after January
32 1, 1997, and before January 1, ~~2022~~, 2018, there shall be allowed
33 as a credit against the amount of “tax,” as defined in Section 23036,
34 an amount equal to 20 percent of the amount of each qualified
35 investment made by a taxpayer during the taxable year into a
36 community development financial institution that is certified by
37 the Department of Insurance, California Organized Investment
38 Network, or any successor thereof.

39 (b) (1) Notwithstanding any other provision of this part, a credit
40 shall not be allowed under this section unless the California

1 Organized Investment Network, or its successor within the
2 Department of Insurance, certifies that the investment described
3 in subdivision (a) qualifies for the credit under this section and
4 certifies the total amount of the credit allocated to the taxpayer
5 pursuant to this section.

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

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

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

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

1 of two hundred thousand dollars (\$200,000) may be eligible for
2 that remaining unallocated portion.

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

7 (5) Priority shall be given to insurance company investors over
8 all other tax credit investors.

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

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

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

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

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

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

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

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

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

34 (i) Name of the taxpayer.

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

37 (iii) Phone number of the taxpayer.

38 (iv) Email address of the taxpayer.

39 (v) The taxpayer's California company identification number
40 for tax administration purposes, or in the case of an "S"

1 corporation, the taxpayer identification numbers of all the
2 shareholders for tax administration purposes.

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

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

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

18 (d) The California Organized Investment Network may certify
19 investments for the credit allowed by this section on or before
20 January 1, ~~2022~~, 2018, but not after that date.

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

39 (1) Accept and evaluate applications for certification from
40 financial institutions and issue certificates that the applicant is a

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

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

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

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

38 (g) For purposes of this section:

39 (1) "Qualified investment" means an investment that is a deposit
40 or loan that does not earn interest, or an equity investment, or an

1 equity-like debt instrument that conforms to the specifications for
2 these instruments as prescribed by the United States Department
3 of the Treasury, Community Development Financial Institutions
4 Fund, or its successor, or, in the absence of that prescription, as
5 defined by the Insurance Commissioner. The investment must be
6 equal to or greater than fifty thousand dollars (\$50,000) and made
7 for a minimum duration of 60 months. During that 60-month
8 period, the community development financial institution shall have
9 full use and control of the proceeds of the entire amount of the
10 investment as well as any earnings on the investment for its
11 community development purposes. The entire amount of the
12 investment shall be received by the community development
13 financial institution before the application for the tax credit is
14 submitted. The community development financial institution shall
15 use the proceeds of the investment for a purpose that is consistent
16 with its community development mission and for the benefit of
17 economically disadvantaged communities and low-income people
18 in California.

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

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

38 (i) In the case where the credit allowed by this section exceeds
39 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 ~~2022~~, 2018, and as of that date is repealed.

O