

Assembly Bill No. 145

CHAPTER 821

An act to add and repeal Section 12209 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor October 8, 1999. Filed
with Secretary of State October 10, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

AB 145, Vincent. Insurance taxation: credit.

Existing insurance tax law requires every insurer, as defined, doing business in this state, to annually pay a tax on gross premiums, as specified, at the rates and subject to the deductions provided by law. Except as otherwise provided, the rate of tax to be applied to the basis of the annual tax in respect to each year is 2.35%. Existing law authorizes a low-income housing credit against that tax on the gross premiums of insurers.

The Personal Income Tax Law and the Bank and Corporation Tax Law allow a credit, until 2002, for specified taxable and income years in an amount equal to 20% of a qualified deposit, as defined, made into a community development financial institution, as defined.

This bill would provide a similar tax credit, until 2002, for purposes of insurance taxation.

Existing law provides that when the laws of another state or foreign country impose certain taxes or other amounts upon California insurers, or their agents or representatives, the same taxes or other amounts are imposed in this state upon the insurers, or their agents or representatives, of the other state or country doing business in this state.

This bill would allow the credit created by this bill to be allowed without any adjustment under those retaliatory tax provisions by treating the credit as a tax paid for purposes of those retaliatory taxes.

This bill would take effect immediately as a tax levy.

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

SECTION 1. Section 12209 is added to the Revenue and Taxation Code, to read:

12209. (a) For each year beginning on or after January 1, 1999, and before January 1, 2002, there shall be allowed as a credit against the amount of tax, as defined in Section 28 of Article XIII of the California Constitution, an amount equal to 20 percent of the amount of each qualified deposit made by a taxpayer during the year into a community development financial institution.

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

(c) Notwithstanding any other provision of this part, no credit shall be allowed under this section unless the California Organized Investment Network of the Department of Insurance, or its successor, certifies that the deposit described in subdivision (a) qualifies for the credit under this section and certifies the total amount of the credit allocated to the taxpayer pursuant to this section. The aggregate amount of qualified deposits made by all taxpayers pursuant to this section, Section 17053.57, and Section 23657 shall not exceed ten million dollars (\$10,000,000) for each calendar year.

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

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

(2) Apply to the California Organized Investment Network, or its successor, on behalf of the taxpayer for certification of the credit amount allocated to the taxpayer prior to accepting any qualified deposit from the taxpayer.

(3) Transmit to the taxpayer and the California Organized Investment Network, or its successor, certification that a qualified deposit has been accepted, the amount of the deposit or equity investment, and the amount of the credit to which the taxpayer is entitled, and retain a copy of the certification.

(4) Obtain the taxpayer's California company identification number for tax administration purposes and provide this information to the California Organized Investment Network, or its successor, with the transmittal required in paragraph (3).

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

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

(1) Accept applications for certification from financial institutions and issue certificates that the applicant is a community development financial institution qualified to receive qualified deposits.

(2) Accept applications for certification from any community development financial institution on behalf of the taxpayer and issue certificates to taxpayers in an aggregate amount that shall not exceed



the limit specified in subdivision (c). The certificate shall include the amount eligible to be made as a deposit or equity investment that qualifies for the credit and the total amount of the credit to which the taxpayer is entitled for the year. Certificates shall be issued in the order that the applications are received.

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

(f) For purposes of this section:

(1) "Qualified deposit" means a deposit that does not earn interest, or an equity investment, that is equal to or greater than fifty thousand dollars (\$50,000) and is made for a minimum duration of 60 months.

(2) "Community development financial institution" means a private financial institution located in this state that is certified by the California Organized Investment Network, or its successor, that has community development as its primary mission, and that lends in urban, rural, or reservation-based communities in this state. A community development financial institution may include a community development bank, a community development loan fund, a community development credit union, a microenterprise fund, a community development corporation-based lender, and a community development venture fund.

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

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

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

(i) This section shall remain in effect only until December 31, 2002, and as of that date is repealed. However, any unused credit may continue to be carried forward, as provided in subdivision (h), until the credit is exhausted.



SEC. 2. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

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