

**ASSEMBLY BILL**

**No. 869**

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**Introduced by Assembly Member Keeley**

February 25, 1999

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An act to add Article 19 (commencing with Section 1115) to Chapter 1 of Part 2 of Division 1 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 869, as introduced, Keeley. Community Reinvestment Act.

Existing law governing insurance prescribes certain authorized investments that can be made by insurers.

This bill would enact the Community Reinvestment Act to establish a continuing and affirmative obligation for insurers to make economically targeted investments in low-income or very low-income communities that benefit low-income or very low-income individuals and have a positive impact on those communities. It would require the Insurance Commissioner to collect and compile information and data relating to the performance of insurers in this regard, to take certain remedial action if an insurer fails to adequately comply with these provisions, and to adopt rules implementing these provisions.

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. The Legislature finds and declares the  
2 following:

3 (a) Insurers are a vital and integral part of the  
4 California economy. Insurers are one of the largest  
5 institutional sources of capital invested or available for  
6 investment in California businesses and affordable  
7 housing developments.

8 (b) Insurers' investable assets are derived, in part,  
9 from premiums paid by California policyholders and the  
10 manner in which those assets are invested affects the  
11 prosperity of California's communities.

12 (c) Pursuant to the federal Community Reinvestment  
13 Act, federally regulated financial institutions have a  
14 continuing and affirmative obligation to meet the credit  
15 needs of the communities they are chartered to serve,  
16 including urban and rural low-income areas. The federal  
17 act has had a positive impact on low-income communities  
18 in California by creating jobs, increasing business and real  
19 estate lending, developing affordable housing units, and  
20 increasing access to financial products and services in  
21 underserved markets. Unlike financial institutions,  
22 insurers have no similar obligation to ensure that their  
23 investments promote the overall growth and  
24 development of low-income communities.

25 (d) There are safe and sound economically targeted  
26 investments available to insurers in low-income  
27 communities that offer competitive rates of return and  
28 that would not create an undue risk to shareholders.  
29 These investments represent unmet or overlooked  
30 business opportunities in California.

31 (e) Investment in low-income communities in  
32 California has been insufficient, resulting in a low level of  
33 economic vitality, substandard housing, and a decline in  
34 the quality of life in many rural and urban areas.

35 (f) Investment by insurance companies is an  
36 important source of capital for California. There is in the  
37 Department of Insurance the California Organized  
38 Investment Network (COIN) that facilitates investments



1 by insurers in California's low-income communities. The  
2 purpose of COIN is to increase the level of insurance  
3 industry capital committed to safe and sound community  
4 investments that benefit California's low-income urban  
5 and rural communities. Despite COIN's best efforts there  
6 has been an insufficient level of economically targeted  
7 investment in California.

8 (g) The creation of IMPACT Capital, a for-profit  
9 insurance industry investment intermediary that  
10 proposes to make community investments in California,  
11 is a positive development that has the potential for  
12 increasing insurer economically targeted investments.  
13 IMPACT Capital's investments to date, however, relative  
14 to the amount of premiums collected annually in  
15 California, are insufficient. Further, IMPACT Capital  
16 only represents a small portion of the entire industry  
17 licensed to do business in California and there is no  
18 assurance that IMPACT Capital will increase its  
19 membership or investment portfolio.

20 (h) It is, therefore, the intent of the Legislature to  
21 establish the continuing and affirmative obligation for  
22 insurers doing business in California to make safe and  
23 sound community development investments in  
24 low-income communities that benefit low-income  
25 individuals and have a positive impact on those  
26 communities. The investments should include  
27 investments intended to create or retain jobs or to create  
28 new or expanded business opportunities.

29 It is further the intent of the Legislature to require the  
30 Insurance Commissioner to collect data on insurers'  
31 community development investments in low-income  
32 communities.

33 SEC. 2. Article 19 (commencing with Section 1115) is  
34 added to Chapter 1 of Part 2 of Division 1 of the Insurance  
35 Code, to read:

36  
37 Article 19. Community Reinvestment Act

38  
39 1115. This article may be cited as the Community  
40 Reinvestment Act.



1 1115.1. As used in this article, the following definitions  
2 apply unless the context requires otherwise:

3 (a) “Affordable housing” means housing that meets  
4 the cost limitations contained in Sections 50052.5 and  
5 50053 of the Health and Safety Code.

6 (b) “Community development credit union” means a  
7 credit union that has as a basic purpose the stimulation of  
8 economic development activities and community  
9 revitalization efforts aimed at benefiting the community  
10 it serves, a majority of which shall be low-income or very  
11 low-income residents.

12 (c) “Community development loan” means a line of  
13 credit, commitment, or letter of credit for affordable  
14 housing and economic development not being met by the  
15 private market.

16 (d) “Community development financial institution”  
17 means a person other than an individual that does all of  
18 the following:

19 (1) Has a primary mission of promoting community  
20 development.

21 (2) Serves an investment area or targeted population.

22 (3) Provides development services in conjunction  
23 with equity investments or loans, directly or through a  
24 subsidiary or affiliate.

25 (4) Maintains, through representation on its  
26 governing board or otherwise, accountability to residents  
27 of its investment area or targeted populations.

28 (5) Is not an agency or instrumentality of the United  
29 States, or of any state or political subdivision of a state.

30 (e) “Economically targeted investments” means  
31 investments by insurers in low-income or very  
32 low-income communities that benefit low-income or very  
33 low-income individuals and have a positive impact on  
34 those communities. Economically targeted investments  
35 may be made directly by insurers, through  
36 intermediaries, or through partnerships, consortia, or  
37 other entities organized by insurers or other financial  
38 institutions. Those investments include, but are not  
39 limited to, the following:



1 (1) Affordable community housing, complying with at  
2 least one of the following:

3 (A) Affordable rental housing, which is a program or  
4 project producing, providing, or preserving rental  
5 housing at a housing expense affordable to households at  
6 or below 60 percent of the area median income, located  
7 anywhere in the state. Affordability controls shall be  
8 secured for a minimum term of 30 years by regulatory  
9 agreement, ground lease, loan agreement, or any other  
10 enforceable regulatory control.

11 (B) Affordable ownership housing, which is a program  
12 or project providing affordable home ownership under  
13 either of the following circumstances:

14 (i) At a housing expense affordable to households at or  
15 below 100 percent of the area median income, adjusted  
16 for family size, for housing units located anywhere in the  
17 state.

18 (ii) At a housing expense affordable to households at  
19 or below 120 percent of the area median income, adjusted  
20 for household size, for housing units located in  
21 low-income census tracts.

22 Ownership units shall carry enforceable resale controls  
23 that restrict sales of the units to households not exceeding  
24 the targeted income levels specified in this paragraph for  
25 a minimum of five years if public funds are involved in  
26 financing the unit or if land use regulations prescribing  
27 income restrictions apply to the units.

28 (C) Mixed income and mixed use development, which  
29 is a program or project for mixed income housing or  
30 mixed use development that includes a residential  
31 component in addition to other uses, provided that the  
32 program or project produces substantial neighborhood  
33 revitalization benefits and is located either in a  
34 low-income census tract or in a rural community.  
35 Substantial neighborhood revitalization benefits may be  
36 demonstrated by the provision of needed social services  
37 within the neighborhood, the provision of retail and office  
38 space of benefit to neighborhood residents, or any other  
39 documented benefit.



1 (2) Community economic development programs or  
2 projects that provide demonstrated economic  
3 development benefits to low-income and rural  
4 communities, and to residents, businesses, and nonprofit  
5 community service organizations located in those  
6 communities, and that comply with both of the following:

7 (A) Geographic targeting of economic development  
8 investments through either of the following:

9 (i) Commercial real estate investments for  
10 developments located in low-income census tracts or in  
11 rural communities.

12 (ii) Business investments in a business other than  
13 commercial real estate development and with a business  
14 address located in a low-income census tract or rural  
15 community. The business address may include  
16 headquarters operations of the business, or a branch,  
17 plant, office, franchise, or other operations of the  
18 business, as long as the program or project can  
19 demonstrate a link between the business address and its  
20 location within a low-income census tract or a rural  
21 community.

22 (B) Delivery of community economic development  
23 programs or projects that shall be accomplished through  
24 one of the following mechanisms:

25 (i) Community development lenders and investors,  
26 including community development financial institutions,  
27 community loan funds, financial intermediaries,  
28 minority-owned financial institutions, regulated financial  
29 institutions with assets of less than one billion dollars  
30 (\$1,000,000,000), community credit unions, loan or  
31 investment funds operated by nonprofit organizations or  
32 government agencies, community development equity  
33 funds, and business industrial development corporations.

34 (ii) Conventional lenders and investors.

35 (iii) Local or state government agencies active in  
36 economic development financing.

37 (iv) A person or entity proposing a program or project  
38 specific to a particular enterprise or development.

39 (f) “Low-income” means, in the case of a person, an  
40 individual income, or in the case of a geographic area, a



1 median family income, that is at least 50 percent, but no  
2 more than 80 percent, of the adjusted area median  
3 income, with adjustments for family size and revised  
4 annually.

5 (g) “Microenterprise” means a commercial enterprise  
6 with 10 or fewer employees, one or more of whom owns  
7 the enterprise.

8 (h) “Rural community” means an area that on January  
9 1 of any calendar year satisfies any of the following  
10 criteria:

11 (1) The area is eligible for financing from the United  
12 States Farmers Home Administration under its Section  
13 515 program, or any successor program.

14 (2) The area is located in a nonmetropolitan area as  
15 defined in Section 50090 of the Health and Safety Code.

16 (3) The area is an incorporated city having a  
17 population of 40,000 or less as identified in the most recent  
18 Report E published by the Demographic Research Unit  
19 of the Department of Finance or is located in the  
20 unincorporated area which adjoins that city, provided  
21 that the city and its adjoining unincorporated area are not  
22 designated as an urbanized area by the United States  
23 Census Bureau and are not part of that urbanized area.  
24 Any inconsistencies between areas eligible under  
25 subdivisions (a) and (b), and this subdivision, shall be  
26 resolved in favor of considering the area a rural area.

27 (i) “Small business” means a commercial enterprise  
28 with gross annual revenues of one million dollars  
29 (\$1,000,000) or less, or in the case of a geographic area, a  
30 median family income, that is less than 50 percent of the  
31 adjusted area median income, with adjustments for  
32 family size and revised annually.

33 1115.2. Insurers admitted in the state have a  
34 continuing and affirmative obligation to make  
35 economically targeted investments in low-income or very  
36 low-income communities as defined in subdivision (e)  
37 Section 1115.1.

38 1115.3. For the purposes of this article economically  
39 targeted investments as defined in subdivision (e) of  
40 Section 1115.1 are exempt from risk-based capital



1 requirements, cash-flow testing requirements and  
2 mandatory reserve requirements, including, but not  
3 limited to, asset valuation reserves and interest  
4 maintenance reserves.

5 1115.4. The commissioner shall collect and compile  
6 information and data relating to the performance of  
7 insurers in making community development investments  
8 in the state. Each admitted insurer shall include as part  
9 of its annual statement an economically targeted  
10 investment report including the following information:  
11 the amount of investment, the type of investment tool  
12 used, the benefit to the low-income or very low-income  
13 community and individuals, and the location by address  
14 and census tract of the investment. All data provided to  
15 the commissioner is available to the public.

16 1115.5. Whenever the commissioner has reason to  
17 believe that an admitted insurer has failed to adequately  
18 make economically targeted investments in accordance  
19 with this article, he or she shall issue an order to show  
20 cause containing a statement of the charges, and a notice  
21 of hearing to be held at a time and place fixed therein  
22 which shall not be less than 30 days after service thereof,  
23 for the purpose of determining whether the  
24 commissioner should issue an order to cease and desist  
25 from further noncompliance with this article. The  
26 hearing shall be conducted in accordance with the  
27 Administrative Procedure Act (Chapter 5 (commencing  
28 with Section 11500) of Part 1 of Division 3 of Title 2 of the  
29 Government Code) or by an administrative law judge  
30 appointed by the commissioner.

31 1115.6. Any interested person may file a petition with  
32 the commissioner seeking the issuance of an order to  
33 show cause directed at an admitted insurer, for the  
34 reasons set forth in Section 1115.5.

35 1115.7. Upon a finding of noncompliance, the  
36 commissioner may use the powers described in Article 1  
37 (commencing with Section 12919) of Chapter 2 of  
38 Division 3 to bring the insurer in compliance with this  
39 article.



1 1115.8. Prior to January 1, 2001, the commissioner may  
2 issue bulletins adopting guidelines for the purpose of  
3 implementing this article. The commissioner shall adopt  
4 rules by January 1, 2001, to implement this article. The  
5 bulletins and rules may specify or define additional  
6 economically targeted investments.

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