

AMENDED IN ASSEMBLY JUNE 2, 1999
AMENDED IN ASSEMBLY APRIL 12, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 869

Introduced by Assembly Member Keeley
(Coauthors: Assembly Members Cedillo, Firebaugh,
Gallegos, Honda, Longville, Reyes, Romero, Soto,
Torlakson, Villaraigosa, Washington, Wesson, ~~Wildman,~~
~~and Wright~~) and Wildman)
(Coauthor: Senator Hughes)

February 25, 1999

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 amended, Keeley. ~~Community Reinvestment Act~~ *Insurers and others: investments.*

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 make legislative findings and declarations concerning the need to encourage insurers and others doing business in California to make investments in low-income communities.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~—no. 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 *SECTION 1. The Legislature finds and declares all of*
3 *the following:*
4 *(a) Insurers and others doing business in California are*
5 *vital and integral parts of the California economy.*
6 *(b) Investments in low-income communities in*
7 *California have been insufficient, resulting in a low level*
8 *of economic vitality, substandard housing, and a decline*
9 *in the quality of life in many rural and urban areas.*
10 *(c) It is, therefore, the intent of the Legislature to*
11 *encourage, through incentives and other mechanisms,*
12 *insurers and others doing business in California to make*
13 *safe investments and sound community development*
14 *investments in low-income communities that benefit*
15 *low-income individuals and have a positive impact on*
16 *those communities. The investments should include*
17 *investments intended to create or retain jobs or to create*
18 *new or expanded business opportunities.*
19 ~~following:~~
20 ~~(a) Insurers are a vital and integral part of the~~
21 ~~California economy. Insurers are one of the largest~~
22 ~~institutional sources of capital invested or available for~~
23 ~~investment in California businesses and affordable~~
24 ~~housing developments.~~
25 ~~(b) Insurers' investable assets are derived, in part,~~
26 ~~from premiums paid by California policyholders and the~~
27 ~~manner in which those assets are invested affects the~~
28 ~~prosperity of California's communities.~~



1 ~~(e) Pursuant to the federal Community Reinvestment~~
2 ~~Act, federally regulated financial institutions have a~~
3 ~~continuing and affirmative obligation to meet the credit~~
4 ~~needs of the communities they are chartered to serve,~~
5 ~~including urban and rural low-income areas. The federal~~
6 ~~act has had a positive impact on low-income communities~~
7 ~~in California by creating jobs, increasing business and real~~
8 ~~estate lending, developing affordable housing units, and~~
9 ~~increasing access to financial products and services in~~
10 ~~underserved markets. Unlike financial institutions,~~
11 ~~insurers have no similar obligation to ensure that their~~
12 ~~investments promote the overall growth and~~
13 ~~development of low-income communities.~~

14 ~~(d) There are safe and sound economically targeted~~
15 ~~investments available to insurers in low-income~~
16 ~~communities that offer competitive rates of return and~~
17 ~~that would not create an undue risk to shareholders.~~
18 ~~These investments represent unmet or overlooked~~
19 ~~business opportunities in California.~~

20 ~~(e) Investment in low-income communities in~~
21 ~~California has been insufficient, resulting in a low level of~~
22 ~~economic vitality, substandard housing, and a decline in~~
23 ~~the quality of life in many rural and urban areas.~~

24 ~~(f) Investment by insurance companies is an~~
25 ~~important source of capital for California. There is in the~~
26 ~~Department of Insurance the California Organized~~
27 ~~Investment Network (COIN) that facilitates investments~~
28 ~~by insurers in California's low-income communities. The~~
29 ~~purpose of COIN is to increase the level of insurance~~
30 ~~industry capital committed to safe and sound community~~
31 ~~investments that benefit California's low-income urban~~
32 ~~and rural communities. Despite COIN's best efforts there~~
33 ~~has been an insufficient level of economically targeted~~
34 ~~investment in California.~~

35 ~~(g) The creation of IMPACT Capital, a for-profit~~
36 ~~insurance industry investment intermediary that~~
37 ~~proposes to make community investments in California,~~
38 ~~is a positive development that has the potential for~~
39 ~~increasing insurer economically targeted investments.~~
40 ~~IMPACT Capital's investments to date, however, relative~~



1 to the amount of premiums collected annually in
2 California, are insufficient. Further, IMPACT Capital
3 only represents a small portion of the entire industry
4 licensed to do business in California and there is no
5 assurance that IMPACT Capital will increase its
6 membership or investment portfolio.

7 (h) It is, therefore, the intent of the Legislature to
8 establish the continuing and affirmative obligation for
9 insurers doing business in California to make safe and
10 sound community development investments in
11 low-income communities that benefit low-income
12 individuals and have a positive impact on those
13 communities. The investments should include
14 investments intended to create or retain jobs or to create
15 new or expanded business opportunities.

16 It is further the intent of the Legislature to require the
17 Insurance Commissioner to collect data on insurers'
18 community development investments in low-income
19 communities.

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

23

24 Article 19. Community Reinvestment Act

25

26 1115. This article may be cited as the Community
27 Reinvestment Act.

28 1115.1. As used in this article, the following definitions
29 apply unless the context requires otherwise:

30 (a) "Affordable housing" means housing that meets
31 the cost limitations contained in Sections 50052.5 and
32 50053 of the Health and Safety Code.

33 (b) "Community development credit union" means a
34 credit union that has as a basic purpose the stimulation of
35 economic development activities and community
36 revitalization efforts aimed at benefiting the community
37 it serves, a majority of which shall be low-income or very
38 low-income residents.

39 (c) "Community development loan" means a line of
40 credit, commitment, or letter of credit for affordable



1 ~~housing and economic development not being met by the~~
2 ~~private market.~~

3 ~~(d) “Community development financial institution”~~
4 ~~means a person other than an individual that does all of~~
5 ~~the following:~~

6 ~~(1) Has a primary mission of promoting community~~
7 ~~development.~~

8 ~~(2) Serves an investment area or targeted population.~~

9 ~~(3) Provides development services in conjunction~~
10 ~~with equity investments or loans, directly or through a~~
11 ~~subsidiary or affiliate.~~

12 ~~(4) Maintains, through representation on its~~
13 ~~governing board or otherwise, accountability to residents~~
14 ~~of its investment area or targeted populations.~~

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

17 ~~(e) “Economically targeted investments” means~~
18 ~~investments by insurers in low-income or very low~~
19 ~~income communities that benefit low-income or very low~~
20 ~~income individuals and have a positive impact on those~~
21 ~~communities. Economically targeted investments may~~
22 ~~be made directly by insurers, through intermediaries, or~~
23 ~~through partnerships, consortia, or other entities~~
24 ~~organized by insurers or other financial institutions.~~
25 ~~Those investments include, but are not limited to, the~~
26 ~~following:~~

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

29 ~~(A) Affordable rental housing, which is a program or~~
30 ~~project producing, providing, or preserving rental~~
31 ~~housing at a housing expense affordable to households at~~
32 ~~or below 60 percent of the area median income, located~~
33 ~~anywhere in the state. Affordability controls shall be~~
34 ~~secured for a minimum term of 30 years by regulatory~~
35 ~~agreement, ground lease, loan agreement, or any other~~
36 ~~enforceable regulatory control.~~

37 ~~(B) Affordable ownership housing, which is a program~~
38 ~~or project providing affordable home ownership under~~
39 ~~either of the following circumstances:~~



1 (i) ~~At a housing expense affordable to households at or~~
2 ~~below 100 percent of the area median income, adjusted~~
3 ~~for family size, for housing units located anywhere in the~~
4 ~~state.~~

5 (ii) ~~At a housing expense affordable to households at~~
6 ~~or below 120 percent of the area median income, adjusted~~
7 ~~for household size, for housing units located in~~
8 ~~low-income census tracts.~~

9 ~~Ownership units shall carry enforceable resale controls~~
10 ~~that restrict sales of the units to households not exceeding~~
11 ~~the targeted income levels specified in this paragraph for~~
12 ~~a minimum of five years if public funds are involved in~~
13 ~~financing the unit or if land use regulations prescribing~~
14 ~~income restrictions apply to the units.~~

15 (C) ~~Mixed income and mixed use development, which~~
16 ~~is a program or project for mixed income housing or~~
17 ~~mixed use development that includes a residential~~
18 ~~component in addition to other uses, provided that the~~
19 ~~program or project produces substantial neighborhood~~
20 ~~revitalization benefits and is located either in a~~
21 ~~low-income census tract or in a rural community.~~
22 ~~Substantial neighborhood revitalization benefits may be~~
23 ~~demonstrated by the provision of needed social services~~
24 ~~within the neighborhood, the provision of retail and office~~
25 ~~space of benefit to neighborhood residents, or any other~~
26 ~~documented benefit.~~

27 (2) ~~Community economic development programs or~~
28 ~~projects that provide demonstrated economic~~
29 ~~development benefits to low-income and rural~~
30 ~~communities, and to residents, businesses, and nonprofit~~
31 ~~community service organizations located in those~~
32 ~~communities, and that comply with both of the following:~~

33 (A) ~~Geographic targeting of economic development~~
34 ~~investments through either of the following:~~

35 (i) ~~Commercial real estate investments for~~
36 ~~developments located in low-income census tracts or in~~
37 ~~rural communities.~~

38 (ii) ~~Business investments in a business other than~~
39 ~~commercial real estate development and with a business~~
40 ~~address located in a low-income census tract or rural~~



1 community. The business address may include
2 headquarters operations of the business, or a branch,
3 plant, office, franchise, or other operations of the
4 business, as long as the program or project can
5 demonstrate a link between the business address and its
6 location within a low-income census tract or a rural
7 community.

8 (B) Delivery of community economic development
9 programs or projects that shall be accomplished through
10 one of the following mechanisms:

11 (i) Community development lenders and investors,
12 including community development financial institutions,
13 community loan funds, financial intermediaries,
14 minority-owned financial institutions, regulated financial
15 institutions with assets of less than one billion dollars
16 (\$1,000,000,000), community credit unions, loan or
17 investment funds operated by nonprofit organizations or
18 government agencies, community development equity
19 funds, and business industrial development corporations.

20 (ii) Conventional lenders and investors.

21 (iii) Local or state government agencies active in
22 economic development financing.

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

25 (f) "Low-income" means, in the case of a person, an
26 individual income, or in the case of a geographic area, a
27 median family income, that is at least 50 percent, but no
28 more than 80 percent, of the adjusted area median
29 income, with adjustments for family size and revised
30 annually.

31 (g) "Microenterprise" means a commercial enterprise
32 with 10 or fewer employees, one or more of whom owns
33 the enterprise.

34 (h) "Rural community" means an area that on January
35 1 of any calendar year satisfies any of the following
36 criteria:

37 (1) The area is eligible for financing from the United
38 States Farmers Home Administration under its Section
39 515 program, or any successor program.



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

3 ~~(3) The area is an incorporated city having a~~
4 ~~population of 40,000 or less as identified in the most recent~~
5 ~~Report E published by the Demographic Research Unit~~
6 ~~of the Department of Finance or is located in the~~
7 ~~unincorporated area which adjoins that city, provided~~
8 ~~that the city and its adjoining unincorporated area are not~~
9 ~~designated as an urbanized area by the United States~~
10 ~~Census Bureau and are not part of that urbanized area.~~
11 ~~Any inconsistencies between areas eligible under~~
12 ~~subdivisions (a) and (b), and this subdivision, shall be~~
13 ~~resolved in favor of considering the area a rural area.~~

14 ~~(i) "Small business" means a commercial enterprise~~
15 ~~with gross annual revenues of one million dollars~~
16 ~~(\$1,000,000) or less, or in the case of a geographic area, a~~
17 ~~median family income, that is less than 50 percent of the~~
18 ~~adjusted area median income, with adjustments for~~
19 ~~family size and revised annually.~~

20 ~~1115.2. Insurers admitted in the state have a~~
21 ~~continuing and affirmative obligation to make~~
22 ~~economically targeted investments in low income or very~~
23 ~~low income communities as defined in subdivision (e)~~
24 ~~Section 1115.1.~~

25 ~~1115.3. The commissioner shall recognize~~
26 ~~economically targeted investments, as defined in~~
27 ~~subdivision (e) of Section 1115.1, made by insurers as~~
28 ~~admitted assets.~~

29 ~~1115.4. The commissioner shall collect and compile~~
30 ~~information and data relating to the performance of~~
31 ~~insurers in making community development investments~~
32 ~~in the state. Each admitted insurer shall include as part~~
33 ~~of its annual statement an economically targeted~~
34 ~~investment report including the following information:~~
35 ~~the amount of investment, the type of investment tool~~
36 ~~used, the benefit to the low income or very low income~~
37 ~~community and individuals, and the location by address~~
38 ~~and census tract of the investment. All data provided to~~
39 ~~the commissioner is available to the public.~~



1 ~~1115.5. Whenever the commissioner has reason to~~
2 ~~believe that an admitted insurer has failed to adequately~~
3 ~~make economically targeted investments in accordance~~
4 ~~with this article, he or she shall issue an order to show~~
5 ~~cause containing a statement of the charges, and a notice~~
6 ~~of hearing to be held at a time and place fixed therein~~
7 ~~which shall not be less than 30 days after service thereof,~~
8 ~~for the purpose of determining whether the~~
9 ~~commissioner should issue an order to cease and desist~~
10 ~~from further noncompliance with this article. The~~
11 ~~hearing shall be conducted in accordance with the~~
12 ~~Administrative Procedure Act (Chapter 5 (commencing~~
13 ~~with Section 11500) of Part 1 of Division 3 of Title 2 of the~~
14 ~~Government Code) or by an administrative law judge~~
15 ~~appointed by the commissioner.~~

16 ~~1115.6. Any interested person may file a petition with~~
17 ~~the commissioner seeking the issuance of an order to~~
18 ~~show cause directed at an admitted insurer, for the~~
19 ~~reasons set forth in Section 1115.5.~~

20 ~~1115.7. Upon issuance of an order to cease and desist~~
21 ~~from further noncompliance with this article, the~~
22 ~~commissioner may use the powers described in Article~~
23 ~~14.5 (commencing with Section 1065.1) to bring the~~
24 ~~insurer in compliance with this article.~~

25 ~~1115.8. Prior to January 1, 2001, the commissioner may~~
26 ~~issue bulletins adopting guidelines for the purpose of~~
27 ~~implementing this article. The commissioner shall adopt~~
28 ~~rules by January 1, 2001, to implement this article. The~~
29 ~~bulletins and rules may specify or define additional~~
30 ~~economically targeted investments.~~

