

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 624

Introduced by Assembly Member John A. Pérez
(Principal coauthor: Assembly Member coauthors: Assembly
Members Blumenfield and Solorio)
(Coauthors: Assembly Members Alejo, Chesbro, and Gordon)

February 16, 2011

An act to add Section 12939.2 to 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 624, as amended, John A. Pérez. California Organized Investment Network.

Existing laws governing the taxation of insurers, the Personal Income Tax Law, and the Corporation Tax Law, authorize, until January 1, 2012, a credit in an amount equal to 20% of a qualified investment, as defined, made into a community development financial institution, as defined, but not to exceed, in the aggregate amount under all those laws, \$10,000,000 per year.

The bill would extend the operation of the credits until January 1, 2017, and require the Insurance Commissioner to establish a California Organized Investment Network Advisory Board, as specified, to advise the California Organized Investment Network on the best methods of increasing insurance investments while providing fair returns to investors and social benefits to underserved communities.

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

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

1 SECTION 1. Section 12939.2 is added to the Insurance Code,
 2 to read:
 3 12939.2. (a) The commissioner shall establish and appoint a
 4 California Organized Investment Network Advisory Board.
 5 (b) For purposes of this section, all of the following shall apply:
 6 (1) “Commissioner” means the Insurance Commissioner of this
 7 state.
 8 (2) “Board” means the California Organized Investment
 9 Network Advisory Board.
 10 (3) “Licensed attorney” means an attorney who resides in this
 11 state who has successfully passed the California bar examination
 12 and has been admitted to practice in this state or has otherwise
 13 been licensed to practice law in this state by the State Bar of
 14 California.
 15 (c) The board shall include the commissioner, *or his or her*
 16 *designee*, and at least one voluntary member from each of the
 17 following:
 18 (1) An executive in the insurance investment industry.
 19 (2) A licensed attorney practicing insurance law.
 20 (4) The California State Assembly, *appointed by the Speaker*
 21 *of the Assembly*.
 22 (5) The California State Senate, *appointed by the Senate*
 23 *Committee on Rules*.
 24 (6) A consumer advocacy group.
 25 (7) An affordable housing practitioner.
 26 (8) A local economic development practitioner.
 27 (9) *A financial institution or a community development financial*
 28 *institution*.
 29 (d) The board shall elect, from among its members, a chair.
 30 (e) The term of each member shall be for two years. Staggered
 31 terms shall be established by drawing lots at the first meeting of
 32 the advisory board so that a simple majority of the members shall
 33 initially serve a two-year term, and the remainder initially a
 34 one-year term.
 35 (f) The board shall have all of the following powers and duties:
 36 (1) To advise the California Organized Investment Network, or
 37 any successor thereof, on the best methods to increase the level of
 38 insurance industry capital in safe and sound investments while

1 providing fair returns to investors and social benefits to
2 underserved communities.

3 (2) To meet quarterly, or as deemed necessary by the
4 commissioner.

5 (g) The members of the board shall not receive compensation
6 from the state for their services under this section but, when called
7 to attend a meeting of the board, may be reimbursed for their actual
8 and necessary expenses incurred in connection with the meeting.

9 SEC. 2. Section 12209 of the Revenue and Taxation Code is
10 amended to read:

11 12209. (a) For each year beginning on or after January 1, 1999,
12 and before January 1, 2017, there shall be allowed as a credit
13 against the amount of tax, as defined in Section 28 of Article XIII
14 of the California Constitution, an amount equal to 20 percent of
15 the amount of each qualified investment made by a taxpayer during
16 the taxable year into a community development financial institution
17 that is certified by the Department of Insurance, California
18 Organized Investment Network, or any successor thereof.

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

25 (c) (1) Notwithstanding any other provision of this part, no
26 credit shall be allowed under this section unless the California
27 Organized Investment Network, or its successor within the
28 Department of Insurance, certifies that the investment described
29 in subdivision (a) qualifies for the credit under this section and
30 certifies the total amount of the credit allocated to the taxpayer
31 pursuant to this section.

32 (2) ~~A credit~~ A credit shall not be allowed by this section unless
33 the applicant and the taxpayer provide satisfactory substantiation
34 to, and in the form and manner requested by, the Department of
35 Insurance, California Organized Investment Network, or any
36 successor thereof, that the investment is a qualified investment as
37 defined in paragraph (1) of subdivision (g). In addition, on or after
38 January 1, 2007, the aggregate certified investments shall meet all
39 of the following:

1 (A) Each year, until October 1, the total qualified investments
2 certified in any calendar year from any one community
3 development financial institution together with its affiliates, as
4 defined in Section 1215 of the Insurance Code, does not exceed
5 the lesser of either ten million dollars (\$10,000,000) or 40 percent
6 of the annual aggregate amount of qualified investments authorized
7 in the first sentence of paragraph (3), or until a date or an amount
8 determined in regulations promulgated by the Insurance
9 Commissioner.

10 (B) Each year, until July 1, the annual aggregate amount of
11 qualified investments specified in the first sentence of paragraph
12 (3) that is reserved for investments by admitted insurers is 25
13 percent, or until a date or an amount determined in regulations
14 promulgated by the Insurance Commissioner.

15 (C) Each year, until July 1, the annual aggregate amount of
16 qualified investments authorized in the first sentence of paragraph
17 (3) that is reserved for individual investment amounts of less than
18 or equal to three hundred thousand dollars (\$300,000) is three
19 million dollars (\$3,000,000), or until a date or amounts determined
20 in regulations promulgated by the Insurance Commissioner.

21 (3) The aggregate amount of qualified investments made by all
22 taxpayers pursuant to this section, Section 17053.57, and Section
23 23657 shall not exceed ten million dollars (\$10,000,000) for each
24 calendar year. However, if the aggregate amount of qualified
25 investments made in any calendar year is less than ten million
26 dollars (\$10,000,000), the difference may be carried over to the
27 next year, and any succeeding year during which this section
28 remains in effect, and added to the aggregate amount authorized
29 for those years.

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

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

35 (2) Apply to the Department of Insurance, California Organized
36 Investment Network, or its successor, on behalf of the taxpayer
37 for certification of the amount of the investment and the credit
38 amount allocated to the taxpayer, obtain the certification, and retain
39 a copy of the certification.

1 (3) Obtain the taxpayer's California company identification
2 number for tax administration purposes and provide this
3 information to the Department of Insurance, California Organized
4 Investment Network, or its successor, with the application required
5 in paragraph (2).

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

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

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

22 (f) The Department of Insurance, California Organized
23 Investment Network, or any successor thereof, shall do all of the
24 following:

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

39 (2) Accept and evaluate applications for certification from any
40 community development financial institution on behalf of the

1 taxpayer and issue certificates to taxpayers in an aggregate amount
2 that shall not exceed the limit specified in subdivision (c). The
3 certificate shall include the amount eligible to be made as an
4 investment that qualifies for the credit and the total amount of the
5 credit to which the taxpayer is entitled for the year. Applications
6 for tax credits shall be accepted and evaluated throughout the year.
7 Certificates shall be issued in the order that complete applications
8 are received. If the aggregate amount of tax credit applications
9 exceeds the amount of tax credits available, tax credits shall be
10 approved for qualifying investments on a first-come-first-served
11 basis as determined by the order in which complete applications
12 are received. All applications received on the same business day
13 are deemed to be received at the same time. If the aggregate amount
14 of tax credit applications received on a single business day exceeds
15 the amount of tax credits available, tax credits shall be approved
16 for qualifying investments received on that day on a pro rata basis.

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

25 (4) Include information specified pursuant to subdivision (b) of
26 Section 12939.1 of the Insurance Code in the report required by
27 Section 12922 of the Insurance Code.

28 (g) For purposes of this section:

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

1 investment for its community development purposes. The entire
2 amount of the investment shall be received by the community
3 development financial institution before the application for the tax
4 credit is submitted. The community development financial
5 institution shall use the proceeds of the investment for a purpose
6 that is consistent with its community development mission and
7 for the benefit of economically disadvantaged communities and
8 low-income people in California.

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

21 (h) (1) If a qualified investment is withdrawn before the end
22 of the 60th month and not reinvested in another community
23 development financial institution within 60 days, there shall be
24 added to the “tax,” as defined in Section 28 of Article XIII of the
25 California Constitution, for the year in which the withdrawal
26 occurs, the entire amount of any credit previously allowed under
27 this section.

28 (2) If a qualified investment is reduced before the end of the
29 60th month, but not below fifty thousand dollars (\$50,000), there
30 shall be added to the “tax,” as defined in Section 28 of Article XIII
31 of the California Constitution, for the taxable year in which the
32 reduction occurs, an amount equal to 20 percent of the total
33 reduction for the year.

34 (i) In the case where the credit allowed by this section exceeds
35 the “tax,” the excess may be carried over to reduce the “tax” for
36 the next four years, or until the credit has been exhausted,
37 whichever occurs first.

38 (j) The State Board of Equalization shall, as requested by the
39 Department of Insurance, California Organized Investment

1 Network, or its successor, advise and assist in the administration
2 of this section.

3 (k) This section shall remain in effect only until December-31
4 1, 2017, and as of that date is repealed.

5 SEC. 3. Section 17053.57 of the Revenue and Taxation Code
6 is amended to read:

7 17053.57. (a) For each taxable year beginning on or after
8 January 1, 1997, and before January 1, 2017, there shall be allowed
9 as a credit against the amount of “net tax,” as defined in Section
10 17039, an amount equal to 20 percent of the amount of each
11 qualified investment made by a taxpayer during the taxable year
12 into a community development financial institution that is certified
13 by the Department of Insurance, California Organized Investment
14 Network, or any successor thereof.

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

22 (2) ~~A credit~~ A credit shall not be allowed by this section unless
23 the applicant and the taxpayer provide satisfactory substantiation
24 to, and in the form and manner requested by, the Department of
25 Insurance, California Organized Investment Network, or any
26 successor thereof, that the investment is a qualified investment, as
27 defined in paragraph (1) of subdivision (f). In addition, on or after
28 January 1, 2007, the aggregate certified investments shall meet all
29 of the following:

30 (A) Each year, until October 1, the total qualified investments
31 certified in any calendar year from any one community
32 development financial institution together with its affiliates, as
33 defined in Section 1215 of the Insurance Code, does not exceed
34 the lesser of either ten million dollars (\$10,000,000) or 40 percent
35 of the annual aggregate amount of qualified investments authorized
36 in the first sentence of paragraph (3), or until a date or an amount
37 determined in regulations promulgated by the Insurance
38 Commissioner.

39 (B) Each year, until July 1, the annual aggregate amount of
40 qualified investments specified in the first sentence of paragraph

1 (3) that is reserved for investments by admitted insurers is 25
2 percent, or until a date or an amount determined in regulations
3 promulgated by the Insurance Commissioner.

4 (C) Each year, until July 1, the annual aggregate amount of
5 qualified investments authorized in the first sentence of paragraph
6 (3) that is reserved for individual investment amounts of less than
7 or equal to three hundred thousand dollars (\$300,000) is three
8 million dollars (\$3,000,000), or until a date or amounts determined
9 in regulations promulgated by the Insurance Commissioner.

10 (3) The aggregate amount of qualified investments made by all
11 taxpayers pursuant to this section, Section 12209, and Section
12 23657 shall not exceed ten million dollars (\$10,000,000) for each
13 calendar year. However, if the aggregate amount of qualified
14 investments made in any calendar year is less than ten million
15 dollars (\$10,000,000), the difference may be carried over to the
16 next year, and any succeeding year during which this section
17 remains in effect, and added to the aggregate amount authorized
18 for those years.

19 (c) The Community Development Financial Institution shall do
20 all of the following:

21 (1) Apply to the Department of Insurance, California Organized
22 Investment Network, or its successor, for certification of its status
23 as a Community Development Financial Institution.

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

29 (3) Obtain the taxpayer's identification number, or in the case
30 of a partnership, the taxpayer identification numbers of all the
31 partners for tax administration purposes and provide this
32 information to the Department of Insurance, California Organized
33 Investment Network, or its successor, with the application required
34 in paragraph (2).

35 (4) Provide an annual listing to the Franchise Tax Board, in the
36 form and manner agreed upon by the Franchise Tax Board and the
37 Department of Insurance, California Organized Investment
38 Network, or its successor, of the names and taxpayer identification
39 numbers of any taxpayer who makes any withdrawal or partial

1 withdrawal of a qualified investment before the expiration of 60
2 months from the date of the qualified investment.

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

6 (d) The Insurance Commissioner may develop instructions,
7 procedures, and standards for applications, and for administering
8 the criteria for the evaluation of applications under this section.
9 The Insurance Commissioner may, from time to time, issue
10 regulations to implement the provisions of this section.

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

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

28 (2) Accept and evaluate applications for certification from any
29 Community Development Financial Institution on behalf of the
30 taxpayer and issue certificates to taxpayers in an aggregate amount
31 that shall not exceed the limit specified in subdivision (b). The
32 certificate shall include the amount eligible to be made as an
33 investment that qualifies for the credit and the total amount of the
34 credit to which the taxpayer is entitled for the taxable year.
35 Applications for tax credits shall be accepted and evaluated
36 throughout the year. Certificates shall be issued in the order that
37 complete applications are received. If the aggregate amount of tax
38 credit applications exceeds the amount of tax credits available, tax
39 credits shall be approved for qualifying investments on a
40 first-come-first-served basis as determined by the order in which

1 complete applications are received. All applications received on
2 the same business day are deemed to be received at the same time.
3 If the aggregate amount of tax credit applications received on a
4 single business day exceeds the amount of tax credits available,
5 tax credits shall be approved for qualifying investments received
6 on that day on a pro rata basis.

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

14 (4) Include information specified pursuant to subdivision (b) of
15 Section 12939.1 of the Insurance Code in the report required by
16 Section 12922 of the Insurance Code.

17 (f) For purposes of this section:

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

38 (2) “Community development financial institution” means a
39 private financial institution located in this state that is certified by
40 the Department of Insurance, California Organized Investment

1 Network, or its successor, that, consistent with the legislative
2 findings, declarations, and intent in Section 12939 of the Insurance
3 Code, has community development as its primary mission, and
4 that lends in urban, rural, or reservation-based communities in this
5 state. A community development financial institution may include
6 a community development bank, a community development loan
7 fund, a community development credit union, a microenterprise
8 fund, a community development corporation-based lender, or a
9 community development venture fund.

10 (g) (1) If a qualified investment is withdrawn before the end
11 of the 60th month and not reinvested in another Community
12 Development Financial Institution within 60 days, there shall be
13 added to the “net tax,” as defined in Section 17039, for the taxable
14 year in which the withdrawal occurs, the entire amount of any
15 credit previously allowed under this section.

16 (2) If a qualified investment is reduced before the end of the
17 60th month, but not below fifty thousand dollars (\$50,000), there
18 shall be added to the “net tax,” as defined in Section 17039, for
19 the taxable year in which the reduction occurs, an amount equal
20 to 20 percent of the total reduction for the taxable year.

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

25 (i) The Franchise Tax Board shall, as requested by the
26 Department of Insurance, California Organized Investment
27 Network, or its successor, advise and assist in the administration
28 of this section.

29 (j) This section shall remain in effect only until December 1,
30 2017, and as of that date is repealed.

31 SEC. 4. Section 23657 of the Revenue and Taxation Code is
32 amended to read:

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

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

8 (2) ~~A credit~~ *A credit* shall not be allowed by this section unless
9 the applicant and the taxpayer provide satisfactory substantiation
10 to, and in the form and manner requested by, the Department of
11 Insurance, California Organized Investment Network, or any
12 successor thereof, that the investment is a qualified investment, as
13 defined in paragraph (1) of subdivision (f). In addition, on or after
14 January 1, 2007, the aggregate certified investments shall meet all
15 of the following:

16 (A) Each year, until October 1, the total qualified investments
17 certified in any calendar year from any one community
18 development financial institution together with its affiliates, as
19 defined in Section 1215 of the Insurance Code, does not exceed
20 the lesser of either ten million dollars (\$10,000,000) or 40 percent
21 of the annual aggregate amount of qualified investments authorized
22 in the first sentence of paragraph (3), or until a date or an amount
23 determined in regulations promulgated by the Insurance
24 Commissioner.

25 (B) Each year, until July 1, the annual aggregate amount of
26 qualified investments specified in the first sentence of paragraph
27 (3) that is reserved for investments by admitted insurers is 25
28 percent, or until a date or an amount determined in regulations
29 promulgated by the Insurance Commissioner.

30 (C) Each year, until July 1, the annual aggregate amount of
31 qualified investments authorized in the first sentence of paragraph
32 (3) that is reserved for individual investment amounts of less than
33 or equal to three hundred thousand dollars (\$300,000) is three
34 million dollars (\$3,000,000), or until a date or amounts determined
35 in regulations promulgated by the Insurance Commissioner.

36 (3) The aggregate amount of qualified investments made by all
37 taxpayers pursuant to this section, Section 12209, and Section
38 17053.57 shall not exceed ten million dollars (\$10,000,000) for
39 each calendar year. However, if the aggregate amount of qualified
40 investments made in any calendar year is less than ten million

1 dollars (\$10,000,000), the difference may be carried over to the
2 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 (c) The Community Development Financial Institution shall do
6 all of the following:

7 (1) Apply to the Department of Insurance, California Organized
8 Investment Network, or its successor, for certification of its status
9 as a Community Development Financial Institution.

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

15 (3) Obtain the taxpayer's identification number, or in the case
16 of an "S" corporation, the taxpayer identification numbers of all
17 the shareholders for tax administration purposes and provide this
18 information to the Department of Insurance, California Organized
19 Investment Network, or its successor, with the application required
20 in paragraph (2).

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

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

31 (d) 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, issue
35 regulations to implement the provisions of this section.

36 (e) 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 (f). 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). The
17 certificate shall include the amount eligible to be made as an
18 investment that qualifies for the credit and the total amount of the
19 credit to which the taxpayer is entitled for the taxable year.
20 Applications for tax credits shall be accepted and evaluated
21 throughout the year. Certificates shall be issued in the order that
22 complete applications are received. If the aggregate amount of tax
23 credit applications exceeds the amount of tax credits available, tax
24 credits shall be approved for qualifying investments on a
25 first-come-first-served basis as determined by the order in which
26 complete applications are received. All applications received on
27 the same business day are deemed to be received at the same time.
28 If the aggregate amount of tax credit applications received on a
29 single business day exceeds the amount of tax credits available,
30 tax credits shall be approved for qualifying investments received
31 on that day on a pro rata basis.

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

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

4 (f) For purposes of this section:

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

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

37 (g) (1) If a qualified investment is withdrawn before the end
38 of the 60th month and not reinvested in another Community
39 Development Financial Institution within 60 days, there shall be
40 added to the “tax,” as defined in Section 23036, for the taxable

1 year in which the withdrawal occurs, the entire amount of any
2 credit previously allowed under this section.

3 (2) If a qualified investment is reduced before the end of the
4 60th month, but not below fifty thousand dollars (\$50,000), there
5 shall be added to the “tax,” as defined in Section 23036, for the
6 taxable year in which the reduction occurs, an amount equal to 20
7 percent of the total reduction for the taxable year.

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

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

16 (j) This section shall remain in effect only until December 1,
17 2017, and as of that date is repealed.

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