

AMENDED IN SENATE AUGUST 21, 2013

AMENDED IN ASSEMBLY APRIL 17, 2013

AMENDED IN ASSEMBLY MARCH 4, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 32**

---

---

**Introduced by Assembly Member John A. Pérez**

December 3, 2012

---

---

An act to amend Sections 12209, 17053.57, and 23657 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 32, as amended, John A. Pérez. Insurance taxes: income taxes: credits: community development financial institution investments.

Existing laws governing the taxation of insurers, the Personal Income Tax Law, and the Corporation Tax Law, authorize, until January 1, 2017, 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. Existing law provides that a credit shall not be allowed under those laws unless the California Organized Investment Network certifies that the investment made by the taxpayer is a qualified investment, as defined. *Existing law requires a community development financial institution to apply to the California Organized Investment Network on behalf of the taxpayer for certification of the amount of the investment and the credit amount allocated to the taxpayer.*

The bill would increase the \$10,000,000 limitation on the aggregate amount of qualified investments to \$50,000,000. *This bill would require*

*a community development financial institution to provide in the application a detailed description of the intended use of the investment funds, as described, and to provide specified information about the taxpayer. This bill would require the California Organized Investment Network, when accepting and evaluating applications for certification from any community development financial institution on behalf of the taxpayer and issuing certificates, to grant highest priority to those applications where the intended use of the investments has the greatest aggregate benefit for low-to-moderate income areas or households or rural areas or households. This bill would require the Insurance Commissioner to establish tax credit issuance cycles throughout the year as necessary in order to issue tax credit certificates to those applications granted the highest priority. This bill would prohibit the total amount of investments certified by the California Organized Investment Network in any calendar year to any one community development financial institution from exceeding 30% of the annual aggregate amount of qualified investments, except as specified. This bill would require that each year 10% of the annual aggregate amount of qualified investments be reserved for investment amounts of less than or equal to \$200,000, as specified. This bill would also allow the California Organized Investment Network to certify investments for the credit until January 1, 2017.*

*This bill would require, on or before June 30, 2016, the Legislative Analyst's Office to submit a report to the Legislature on the effects of the tax credits allowed, with a focus on employment in low-to-moderate income and rural areas, and on the benefits of these tax credits to low-to-moderate income and rural persons.*

Existing law authorizes the California Organized Investment Network, in allocating qualified investment credits, when certain conditions are met, to prioritize applications for those credits, as specified.

This bill would revise those conditions.

*This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of  $\frac{2}{3}$  of the membership of each house of the Legislature.*

This bill would take effect immediately as a tax levy.

Vote: ~~majority~~ $\frac{2}{3}$ . 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 12209 of the Revenue and Taxation Code  
2 is amended to read:

3 12209. (a) For each year beginning on or after January 1, 1999,  
4 and before January 1, 2017, there shall be allowed as a credit  
5 against the amount of tax, as defined in Section 28 of Article XIII  
6 of the California Constitution, an amount equal to 20 percent of  
7 the amount of each qualified investment made by a taxpayer during  
8 the taxable year into a community development financial institution  
9 that is certified by the Department of Insurance, California  
10 Organized Investment Network, or any successor thereof.

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

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

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

30 (3) (A) The aggregate amount of qualified investments made  
31 by all taxpayers pursuant to this section, Section 17053.57, and  
32 Section 23657 shall not exceed fifty million dollars (\$50,000,000)  
33 for each calendar year. However, if the aggregate amount of  
34 qualified investments made in any calendar year is less than fifty  
35 million dollars (\$50,000,000), the difference may be carried over  
36 to the next year, and any succeeding year during which this section  
37 remains in effect, and added to the aggregate amount authorized  
38 for those years.

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

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

22 ~~(4) If the California Organized Investment Network determines~~  
 23 ~~that total qualified investments will exceed the aggregate amount~~  
 24 ~~of qualified investments made by all taxpayers specified in~~  
 25 ~~paragraph (3), priority shall be granted to those applications that~~  
 26 ~~meet one or both of the following:~~

- 27 ~~(A) Directly benefit low-income persons.~~
- 28 ~~(B) Represent investments from insurance companies subject~~  
 29 ~~to tax under Section 12201 of this code or under Section 28 of~~  
 30 ~~Article XIII of the California Constitution.~~

31 ~~(5)~~  
 32 (4) Priority among housing applications shall be given to  
 33 applications that support affordable rental housing, housing for  
 34 veterans, mortgages for community-based residential programs,  
 35 and self-help housing ahead of single-family owned housing.

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

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

1 (2) (A) Apply to the Department of Insurance, California  
2 Organized Investment Network, or its successor, on behalf of the  
3 taxpayer for certification of the amount of the investment and the  
4 credit amount allocated to the taxpayer, obtain the certification,  
5 and retain a copy of the certification.

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

11 (B) Provide in the application a detailed description of the  
12 intended use of the investment funds including, but not limited to,  
13 the following:

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

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

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

20 (iv) The percentage of the intended use of the investment funds  
21 that is a green investment as defined in Section 926.1 of the  
22 Insurance Code.

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

26 (i) Name of the taxpayer.

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

29 (iii) Phone number of the taxpayer.

30 (iv) E-mail address of the taxpayer.

31 (v) The taxpayer's California company identification number  
32 for tax administration purposes.

33 (B) The information provided in subparagraph (A) shall be used  
34 only for internal purposes by the Department of Insurance,  
35 California Organized Investment Network, or its successor, and  
36 any public disclosure of that information shall be limited to the  
37 name of the taxpayer only.

38 (4) Provide an annual listing to the State Board of Equalization,  
39 in the form and manner agreed upon by the State Board of  
40 Equalization and the Department of Insurance, California

1 Organized Investment Network, or its successor, of the names and  
2 taxpayer's California company identification numbers of any  
3 taxpayer who makes any withdrawal or partial withdrawal of a  
4 qualified investment before the expiration of 60 months from the  
5 date of the qualified investment.

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

9 (e) The California Organized Investment Network may certify  
10 investments for the credit allowed by this section on or before  
11 January 1, 2017, but not after that date.

12 (f) The Insurance Commissioner may develop instructions,  
13 procedures, and standards for applications, and for administering  
14 the criteria for the evaluation of applications under this section.  
15 The Insurance Commissioner may, from time to time, issue  
16 regulations to implement the provisions of this section.

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

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

34 (2) Accept and evaluate applications for certification from any  
35 community development financial institution on behalf of the  
36 taxpayer and issue certificates to taxpayers in an aggregate amount  
37 that shall not exceed the limit specified in subdivision (c), *with*  
38 *highest priority granted to those applications where the intended*  
39 *use of the investments has the greatest aggregate benefit for*  
40 *low-to-moderate income areas or households or rural areas or*

1 *households*. The certificate shall include the amount eligible to be  
2 made as an investment that qualifies for the credit and the total  
3 amount of the credit to which the taxpayer is entitled for the year.  
4 Applications for tax credits shall be accepted and evaluated  
5 throughout the year. *The Insurance Commissioner shall establish*  
6 *tax credit issuance cycles throughout the year as necessary in*  
7 *order to issue tax credit certificates to those applications granted*  
8 *the highest priority.*

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

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

20 (h) For purposes of this section:

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

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

14 (i) (1) If a qualified investment is withdrawn before the end of  
15 the 60th month and not reinvested in another community  
16 development financial institution within 60 days, there shall be  
17 added to the “tax,” as defined in Section 28 of Article XIII of the  
18 California Constitution, for the year in which the withdrawal  
19 occurs, the entire amount of any credit previously allowed under  
20 this section.

21 (2) If a qualified investment is reduced before the end of the  
22 60th month, but not below fifty thousand dollars (\$50,000), there  
23 shall be added to the “tax,” as defined in Section 28 of Article XIII  
24 of the California Constitution, for the taxable year in which the  
25 reduction occurs, an amount equal to 20 percent of the total  
26 reduction for the year.

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

31 (k) The State Board of Equalization shall, as requested by the  
32 Department of Insurance, California Organized Investment  
33 Network, or its successor, advise and assist in the administration  
34 of this section.

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

1 *areas, and on the benefits of these tax credits to low-to-moderate*  
2 *income and rural persons.*

3 (†)

4 (m) This section shall remain in effect only until December 1,  
5 2017, and as of that date is repealed.

6 SEC. 2. Section 17053.57 of the Revenue and Taxation Code  
7 is amended to read:

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

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

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

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

38 (B) The total amount of qualified investments certified by the  
39 California Organized Investment Network in any calendar year to  
40 any one community development financial institution together

1 with its affiliates, as defined in Section 1215 of the Insurance Code,  
 2 shall not exceed 30 percent of the annual aggregate amount of  
 3 qualified investments certified by the California Organized  
 4 Investment Network. ~~If~~ after October 1, the California Organized  
 5 Investment Network has determined that the availability of tax  
 6 credits exceed their demand, then a community development  
 7 financial institution that has been allocated 30 percent of the annual  
 8 aggregate amount of qualified investments shall become eligible  
 9 to apply to be certified for any remaining tax credits in that calendar  
 10 year.

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

19 ~~(4) If the California Organized Investment Network determines~~  
 20 ~~that total qualified investments will exceed the aggregate amount~~  
 21 ~~of qualified investments made by all taxpayers specified in~~  
 22 ~~paragraph (3), priority shall be granted to those applications that~~  
 23 ~~meet one or both of the following:~~

24 ~~(A) Directly benefit low-income persons.~~

25 ~~(B) Represent investments from insurance companies subject~~  
 26 ~~to tax under Section 12201 of this code or under Section 28 of~~  
 27 ~~Article XIII of the California Constitution.~~

28 ~~(5)~~

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

33 (c) The community development financial institution shall do  
 34 all of the following:

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

38 (2) (A) Apply to the Department of Insurance, California  
 39 Organized Investment Network, or its successor, on behalf of the  
 40 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 ~~(3) Obtain the taxpayer's identification number, or in the case~~  
4 ~~of a partnership, the taxpayer identification numbers of all the~~  
5 ~~partners for tax administration purposes and provide this~~  
6 ~~information to the Department of Insurance, California Organized~~  
7 ~~Investment Network, or its successor, with the application required~~  
8 ~~in paragraph (2).~~

9 *(B) Provide in the application a detailed description of the*  
10 *intended use of the investment funds including, but not limited to,*  
11 *the following:*

12 *(i) All of the programs, projects, and services that would be*  
13 *funded.*

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

16 *(iii) The percentage of the intended use of the investment funds*  
17 *that would directly benefit rural areas.*

18 *(iv) The percentage of the intended use of the investment funds*  
19 *that is a green investment as defined in Section 926.1 of the*  
20 *Insurance Code.*

21 *(3) (A) Provide in the application required in paragraph (2)*  
22 *the following information to the Department of Insurance,*  
23 *California Organized Investment Network, or its successor:*

24 *(i) Name of the taxpayer.*

25 *(ii) Postal address of the taxpayer, or residential address of the*  
26 *taxpayer if the taxpayer is an individual.*

27 *(iii) Phone number of the taxpayer.*

28 *(iv) E-mail address of the taxpayer.*

29 *(v) The taxpayer's identification number, or in the case of a*  
30 *partnership, the taxpayer identification numbers of all the partners*  
31 *for tax administration purposes.*

32 *(B) The information provided in subparagraph (A) shall be used*  
33 *only for internal purposes by the Department of Insurance,*  
34 *California Organized Investment Network, or its successor, and*  
35 *any Network, or its successor shall limit all public disclosure of*  
36 *that information shall be limited to the name of the taxpayer only.*

37 *(4) Provide an annual listing to the Franchise Tax Board, in the*  
38 *form and manner agreed upon by the Franchise Tax Board and the*  
39 *Department of Insurance, California Organized Investment*  
40 *Network, or its successor, of the names and taxpayer identification*

1 numbers of any taxpayer who makes any withdrawal or partial  
2 withdrawal of a qualified investment before the expiration of 60  
3 months from the date of the qualified investment.

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

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

12 (e) The California Organized Investment Network may certify  
13 investments for the credit allowed by this section on or before  
14 January 1, 2017, but not after that date.

15 (f) The Department of Insurance, California Organized  
16 Investment Network, or any successor thereof, shall do all of the  
17 following:

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

32 (2) Accept and evaluate applications for certification from any  
33 community development financial institution on behalf of the  
34 taxpayer and issue certificates to taxpayers in an aggregate amount  
35 that shall not exceed the limit specified in subdivision (b), *with*  
36 *highest priority granted to those applications where the intended*  
37 *use of the investments has the greatest aggregate benefit for*  
38 *low-to-moderate income areas or households or rural areas or*  
39 *households*. The certificate shall include the amount eligible to be  
40 made as an investment that qualifies for the credit and the total

1 amount of the credit to which the taxpayer is entitled for the taxable  
2 year. Applications for tax credits shall be accepted and evaluated  
3 throughout the year. *The Insurance Commissioner shall establish*  
4 *tax credit issuance cycles throughout the year as necessary in*  
5 *order to issue tax credit certificates to those applications granted*  
6 *the highest priority.*

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 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 (g) 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 equity-like debt instrument that conforms to the specifications for  
21 these instruments as prescribed by the United States Department  
22 of the Treasury, Community Development Financial Institutions  
23 Fund, or its successor, or, in the absence of that prescription, as  
24 defined by the Insurance Commissioner. The investment must be  
25 equal to or greater than fifty thousand dollars (\$50,000) and made  
26 for a minimum duration of 60 months. During that 60-month  
27 period, the community development financial institution shall have  
28 full use and control of the proceeds of the entire amount of the  
29 investment as well as any earnings on the investment for its  
30 community development purposes. The entire amount of the  
31 investment shall be received by the community development  
32 financial institution before the application for the tax credit is  
33 submitted. The community development financial institution shall  
34 use the proceeds of the investment for a purpose that is consistent  
35 with its community development mission and for the benefit of  
36 economically disadvantaged communities and low-income people  
37 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 set forth in Section 12939 of the  
3 Insurance Code, has community development as its primary  
4 mission, and that lends in urban, rural, or reservation-based  
5 communities in this state. A community development financial  
6 institution may include a community development bank, a  
7 community development loan fund, a community development  
8 credit union, a microenterprise fund, a community development  
9 corporation-based lender, or a community development venture  
10 fund.

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

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

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

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

30 (k) *On or before June 30, 2016, the Legislative Analyst’s Office*  
31 *shall submit a report to the Legislature, in compliance with Section*  
32 *9795 of the Government Code, on the effects of the tax credits*  
33 *allowed under this section, Section 12209, and Section 23657,*  
34 *with a focus on employment in low-to-moderate income and rural*  
35 *areas, and on the benefits of these tax credits to low-to-moderate*  
36 *income and rural persons.*

37 ~~(k)~~

38 (l) This section shall remain in effect only until December 1,  
39 2017, and as of that date is repealed.

1 SEC. 3. Section 23657 of the Revenue and Taxation Code is  
2 amended to read:

3 23657. (a) For each taxable year beginning on or after January  
4 1, 1997, and before January 1, 2017, there shall be allowed as a  
5 credit against the amount of “tax,” as defined in Section 23036,  
6 an amount equal to 20 percent of the amount of each qualified  
7 investment made by a taxpayer during the taxable year into a  
8 community development financial institution that is certified by  
9 the Department of Insurance, California Organized Investment  
10 Network, or any successor thereof.

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

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

24 (3) (A) The aggregate amount of qualified investments made  
25 by all taxpayers pursuant to this section, Section 12209, and Section  
26 17053.57 shall not exceed fifty million dollars (\$50,000,000) for  
27 each calendar year. However, if the aggregate amount of qualified  
28 investments made in any calendar year is less than fifty million  
29 dollars (\$50,000,000), the difference may be carried over to the  
30 next year, and any succeeding year during which this section  
31 remains in effect, and added to the aggregate amount authorized  
32 for those years.

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

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

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

14 ~~(4) If the California Organized Investment Network determines~~  
 15 ~~that total qualified investments will exceed the aggregate amount~~  
 16 ~~of qualified investments made by all taxpayers specified in~~  
 17 ~~paragraph (3), priority shall be granted to those applications that~~  
 18 ~~meet one or both of the following:~~

19 ~~(A) Directly benefit low-income persons.~~

20 ~~(B) Represent investments from insurance companies subject~~  
 21 ~~to tax under Section 12201 of this code or under Section 28 of~~  
 22 ~~Article XIII of the California Constitution.~~

23 ~~(5)~~

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

28 (c) The community development financial institution shall do  
 29 all of the following:

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

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

38 ~~(3) Obtain the taxpayer's identification number, or in the case~~  
 39 ~~of an "S" corporation, the taxpayer identification numbers of all~~  
 40 ~~the shareholders for tax administration purposes and provide this~~

1 information to the Department of Insurance, California Organized  
2 Investment Network, or its successor, with the application required  
3 in paragraph (2).

4 (B) Provide in the application a detailed description of the  
5 intended use of the investment funds including, but not limited to,  
6 the following:

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

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

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

13 (iv) The percentage of the intended use of the investment funds  
14 that is a green investment as defined in Section 926.1 of the  
15 Insurance Code.

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

19 (i) Name of the taxpayer.

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

22 (iii) Phone number of the taxpayer.

23 (iv) E-mail address of the taxpayer.

24 (v) The taxpayer's California company identification number  
25 for tax administration purposes, or in the case of an "S"  
26 corporation, the taxpayer identification numbers of all the  
27 shareholders for tax administration purposes.

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

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

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

4 (d) The California Organized Investment Network may certify  
5 investments for the credit allowed by this section on or before  
6 January 1, 2017, but not after that date.

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

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

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

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

1 *tax credit issuance cycles throughout the year as necessary in*  
2 *order to issue tax credit certificates to those applications granted*  
3 *the highest priority.*

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

11 (4) Include information specified pursuant to subdivision (b) of  
12 Section 12939.1 of the Insurance Code in the report required by  
13 Section 12922 of the Insurance Code.

14 (g) For purposes of this section:

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

35 (2) “Community development financial institution” means a  
36 private financial institution located in this state that is certified by  
37 the Department of Insurance, California Organized Investment  
38 Network, or its successor, that, consistent with the legislative  
39 findings, declarations, and intent set forth in Section 12939 of the  
40 Insurance Code, has community development as its primary

1 mission, and that lends in urban, rural, or reservation-based  
 2 communities in this state. A community development financial  
 3 institution may include a community development bank, a  
 4 community development loan fund, a community development  
 5 credit union, a microenterprise fund, a community development  
 6 corporation-based lender, or a community development venture  
 7 fund.

8 (h) (1) If a qualified investment is withdrawn before the end  
 9 of the 60th month and not reinvested in another community  
 10 development financial institution within 60 days, there shall be  
 11 added to the “tax,” as defined in Section 23036, for the taxable  
 12 year in which the withdrawal occurs, the entire amount of any  
 13 credit previously allowed under this section.

14 (2) If a qualified investment is reduced before the end of the  
 15 60th month, but not below fifty thousand dollars (\$50,000), there  
 16 shall be added to the “tax,” as defined in Section 23036, for the  
 17 taxable year in which the reduction occurs, an amount equal to 20  
 18 percent of the total reduction for the taxable year.

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

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

27 (k) *On or before June 30, 2016, the Legislative Analyst’s Office*  
 28 *shall submit a report to the Legislature, in compliance with Section*  
 29 *9795 of the Government Code, on the effects of the tax credits*  
 30 *allowed under this section, Section 12209, and Section 17053.57,*  
 31 *with a focus on employment in low-to-moderate income and rural*  
 32 *areas, and on the benefits of these tax credits to low-to-moderate*  
 33 *income and rural persons.*

34 ~~(k)~~

35 (l) This section shall remain in effect only until December 1,  
 36 2017, and as of that date is repealed.

37 SEC. 4. This act provides for a tax levy within the meaning of  
 38 Article IV of the Constitution and shall go into immediate effect.

O