

# California CDFI Income Tax Credit for Insurance Companies

## California Revenue and Taxation Code Section 12209

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12209. (a) For each year beginning on or after January 1, 1999, and before January 1, 2012, there shall be allowed as a credit against the amount of tax, as defined in Section 28 of Article XIII of the California Constitution, an amount equal to 20 percent of the amount of each qualified investment made by a taxpayer during the taxable year into a community development financial institution that is certified by the Department of Insurance, California Organized Investment Network, or any successor thereof.

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

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

(2) No credit shall be allowed by this section unless the applicant and the taxpayer provide satisfactory substantiation to, and in the form and manner requested by, the Department of Insurance, California Organized Investment Network, or any successor thereof, that the investment is a qualified investment as defined in paragraph (1) of subdivision (g). In addition, on or after January 1, 2007, the aggregate certified investments shall meet all of the following:

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

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

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

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

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

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

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

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

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

(5) Submit reports to the department, COIN, or any successor thereof, as required pursuant to subdivision (a) of Section 12939.1 of the Insurance Code.

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

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

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

(2) Accept and evaluate applications for certification from any community development financial institution on behalf of the taxpayer and issue certificates to taxpayers in an aggregate amount that shall not exceed the limit specified in subdivision (c). The certificate shall include the amount eligible to be made as an investment that qualifies for the credit and the total amount of the credit to which the taxpayer is entitled for the year. Applications for tax credits shall be accepted and evaluated throughout the year. Certificates shall be issued in the order that complete applications are received. If the aggregate amount of tax credit applications exceeds the amount of tax credits available, tax credits shall be approved for qualifying investments on a first-come-first-served basis as determined by the order in which complete applications are received. All applications received on the same business day are deemed to be received at the same time. If the aggregate amount of tax credit applications received on a single business day exceeds the amount of tax credits available, tax credits shall be approved for qualifying investments received on that day on a pro rata basis.

(3) Provide an annual listing to the State Board of Equalization, in the form or manner agreed upon by the State Board of Equalization and the Department of Insurance, California Organized Investment Network, or its successor, of the taxpayers who were issued certificates, their respective National Association of Insurance Commissioners company number and employer's

tax identification number, the amount of the qualified investment made by each taxpayer, and the total amount of qualified investments.

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

(g) For purposes of this section:

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

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

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

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

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

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

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

(k) This section shall remain in effect only until December 31, 2012, and as of that date is repealed.