

CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

ASSEMBLY BILL

No. 1715

Introduced by Committee on Jobs, Economic Development, and the Economy (Assembly Members Quirk-Silva (Chair), Travis Allen (Vice Chair), Berman, Cervantes, Grayson, and Rodriguez)

March 15, 2017

An act to amend Section 926.1 of the Insurance Code, and to amend Sections 12209, 17053.57, and 23657 of, to add Section 18410.3 to, and to add and repeal Sections 12283, 17053.9, and 23622.9 of, the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1715, as introduced, Committee on Jobs, Economic Development, and the Economy. Insurance: insurance taxation: income taxation: credits: community development investments: California New Markets Tax Credit.

(1) Existing law requires each admitted insurer with annual premiums written in California equal to or less than \$100,000,000 to provide information to the Insurance Commissioner by July 1, 2016, on all of its community development investments, community development infrastructure investments, and green investments, as defined, in California. Existing law defines a community development investment as certain projects, developments, or activities where all or a portion of the investment has as its primary purpose community development for, or that directly benefits, low- or moderate-income individuals, families, or communities. Existing law defines community development infrastructure as California public debt where all or a portion

of the debt has as its primary purpose community development for, or that directly benefits, low- or moderate-income communities consistent with the types of projects, developments, or activities specified as community development investments. Existing law defines green investments, among other things, as specified projects offering energy efficiency improvements and renewable energy generation. Existing law requires the insurer to list investments that are high impact, which is an investment that is innovative, responsive to community needs, not routinely provided by an insurer, or has a high degree of positive impact on the economic welfare of low- or moderate-income individuals, families, or communities in urban or rural areas of California.

This bill, among other things, would instead define a community development investment as certain projects, developments, or activities where all or a substantial portion of the investment has as its primary purpose community development for, or that directly benefits low- to moderate-income individuals, families, or communities. The bill would include investments in reservation-based communities and investments in rural areas, as defined, within community development investments. The bill would instead define community development infrastructure as all California debt where all or a portion of the debt has as its primary purpose community development for, or that directly benefits, low- to moderate-income communities. This bill would include water and waste management and sustainable agriculture projects in the definition of green investments. The bill would instead define a high-impact investment as an investment that is responsive to community needs and provides at least 51% social or environmental benefit to low-income individuals, families, or communities in the state. The bill would also define “diverse investment managers” as investment management organizations, including, but not limited to, corporations, groups and persons within corporations, partnerships, limited liability companies, and other special purpose vehicles that are either located in, or actively make and hold investments in, California and whose investment managers are comprised of at least 51% women, veterans, or minorities, or a combination of persons in those groups.

(2) Existing law imposes an annual tax on the gross premiums of an insurer, as defined, doing business in this state at specified rates. Existing law, allows a tax credit under the Personal Income Tax Law and the Corporation Tax Law for taxable years, beginning before January 1, 2017, and a credit against the tax imposed on an insurer for each year before January 1, 2017, in an amount equal to 20% of a qualified investment, as defined, made in a community development financial institution, as defined, but not to exceed, in the aggregate amount under all those laws, \$50,000,000 per year and authorizes the California Organized Investment Network to certify investments for the credit until January 1, 2017, based on an application submitted by the community development financial institution. Existing law provides that if a qualified investment is reduced before the end of the 60th month, but not below

\$50,000, an amount equal to 20% of the total reduction for the year shall be added to the tax imposed on the taxpayer. Existing law also provides that 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, the entire amount of any credit previously allowed for that taxable year is required to be added to the tax imposed on the taxpayer.

This bill, among other things, would extend the provisions relating to the authorization of the credit and certification by the California Organized Investment Network until January 1, 2019, and would modify the application requirements for certification of investments, as specified. The bill would require priority for the tax credit to be given to insurance company investors. The bill would delete the provision described above relating to a reduction of a qualified investment and would instead require that the provision regarding withdrawal, without reinvestment, of a qualified investment also apply when a qualified investment is reduced.

(3) Existing federal law allows a New Markets Tax Credit to a taxpayer holding a qualified equity investment in an amount equal to the applicable percentage of the amount paid to the qualified community development entity for investment in low-income communities.

The state Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws. Existing state constitutional law governing insurance taxation imposes an annual tax on the gross premiums of an insurer, as defined, doing business in this state at specified rates.

This bill would allow a California New Markets Tax Credit under the Personal Income Tax Law, the Corporation Tax Law, and the law governing insurance taxation, in modified conformity with the federal New Markets Tax Credit, for taxable years beginning on or after January 1, 2018, and before January 1, 2023, in a specified amount for investments in low-income communities. The bill would limit the total annual amount of credit allowed pursuant to these provisions to \$40,000,000 per calendar year. The bill would impose specified duties on the Responsible Tax Credit Administrator (RTCA), to be designated by the Governor, with regard to the application for, and allocation of, the credit. The bill would require the RTCA to establish and impose reasonable fees upon entities that apply for the allocation of the credit, to be deposited in the California New Markets Tax Credit Fund established by the bill, and use the revenue, upon annual appropriation by the Legislature, to defray the cost of applying to and administering the credits, as specified. The bill would only authorize the allocation for these credits for those taxable years for which moneys are appropriated to the RTCA to administer these credits for those taxable years.

Existing law requires any bill authorizing a new personal or corporation income tax credit to contain, among other things, specific goals, purposes, and objectives that the tax credit will achieve, detailed performance indicators, and data collection requirements, as provided.

This bill would also include that additional information required for any bill authorizing a new personal or corporation income tax credit.

(4) The bill would provide that its provisions are severable.

(5) This bill would declare that it is to take effect immediately as an urgency statute.

Digest Key

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: no

Bill Text

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1.

The Legislature finds and declares the following:

(a) While many areas of California have recovered from the economic and community development impacts of the 2006 Financial Crisis and the 2010 global recession, Californians in a number of communities and neighborhoods are still experiencing their lingering effects. In some cases this has resulted in small and medium businesses in low-income areas lacking sufficient access to capital and technical assistance. Given that the state has many needs and limited resources, moneys from the private sector are necessary to fill this capital and investment gap.

(b) Initially enacted in 2000, the federal government established the New Markets Tax Credit (NMTC) Program, which uses a market-based approach for expanding capital and technical assistance to businesses in lower income communities. The federal program is jointly administered by the Community Development Financial Institutions Fund (CDFI Fund) and the Internal Revenue Service. The NMTC Program allocates federal tax incentives to community development entities (CDE),

which they then use to attract private investors who contribute funds that can be used to finance and invest in businesses and develop real estate in low-income communities. Through the 2013–14 funding round, the CDFI Fund had awarded approximately forty billion dollars (\$40,000,000,000) in NMTC in 836 awards, including three billion dollars (\$3,000,000,000) in American Recovery and Investment Act of 2009 awards and one billion dollars (\$1,000,000,000) of special allocation authority to be used for the recovery and redevelopment of the Gulf Opportunity Zone.

(c) Since 2003, the NMTC Program has created or retained an estimated 197,585 jobs nationally. It has also supported the construction of 32.4 million square feet of manufacturing space, 74.8 million square feet of office space, and 57.5 million square feet of retail space. The United States Department of the Treasury reports that a secondary benefit is that as these communities develop, they become more attractive to investors, catalyzing a ripple effect that spurs further investments and revitalization.

(d) For every one dollar (\$1) invested by the federal government, the NMTC Program generates over eight dollars (\$8) of private investment. The NMTC Program catalyzes investment in the most economically challenged areas of the state. Over 75 percent of New Markets Tax Credit investments have been made in highly distressed areas, meaning the household income was less than 60 percent of statewide median income and the poverty rate was higher than 30 percent.

(e) The federal NMTC totals 39 percent of the original investment amount in the CDE and is claimed over a period of seven years (5 percent for each of the first three years and 6 percent for each of the remaining four years). Any investment by any taxpayer in the CDE redeemed before the end of the seven-year period will be recaptured.

(f) Fourteen states in the United States have adopted state programs using the NMTC model including Alabama, Florida, Illinois, Nevada, and Oregon. While some of the programs substantially mirror the federal program, others vary in both the percentage of the credit and some of the policies that form the foundation of the credit. One of the reasons cited for establishing state-level programs is to make a state more attractive to CDEs, which results in increasing the amount of federal NMTCs being utilized in a state. Further, several studies, including a January 1, 2011, case study by Pacific Community Ventures, showed that for every dollar of forgone tax revenue, the federal NMTC leverages twelve dollars (\$12) to fourteen dollars (\$14) of private investment.

SEC. 2.

Section 926.1 of the Insurance Code is amended to read:

926.1.

As used in this article, the following terms shall have the following meanings:

(a) “Area median income” (AMI) means either of the following:

(1) The median family income for the Metropolitan Statistical Area (MSA), if a person or geography is located in an MSA, or for the metropolitan division, if a person or geography is located in an MSA that has been subdivided into metropolitan divisions.

(2) The statewide nonmetropolitan median family income, if a person or geography is located outside an MSA.

(b) “Community development investment” means an investment where all or a *substantial* portion of the investment has as its primary purpose community development for, or that directly benefits, California low-~~or~~ to moderate-income individuals, families, or communities. “Community development investment” includes, but is not limited to, investments in California in the following:

(1) Affordable housing, including multifamily rental and ownership housing, for low-~~or~~ to moderate-income individuals or families.

(2) Community facilities or community services providers (including providers of education, health, or social services) directly benefiting low-~~or~~ to moderate-income individuals, families, or communities.

(3) Economic development that demonstrates benefits, including, but not limited to, job creation, retention, or improvement, or provision of needed capital, to low-~~or~~ to moderate-income individuals, families, or communities, including urban or rural communities, or businesses or nonprofit community service organizations that serve these communities.

(4) Activities that revitalize or stabilize low-~~or~~ to moderate-income communities.

(5) Investments in or through California Organized Investment Network (COIN)-certified community development financial institutions (CDFIs) and investments made pursuant to the requirements of federal, state, or local community development investment programs or community development investment tax incentive programs, ~~including green investments~~, if these investments directly benefit low-~~or~~ to moderate-income individuals, families, and communities and are consistent with this article.

(6) Community development infrastructure ~~investments~~. *investments if these investments directly benefit low- to moderate-income individuals, families, or communities.*

(7) Investments in a commercial property or properties located in low-~~or~~ to moderate-income geographical areas ~~and that~~ are consistent with this article.

(8) Investments in reservation-based communities. “Reservation-based” means an area of land managed by a Native American tribe under the jurisdiction of the federal Bureau of Indian Affairs, provided that the tribe is named on the most current list of “Indian Entities Recognized and Eligible to Receive Services from the Bureau of Indian Affairs,” or successor document, as published in the Federal Register by the federal Bureau of Indian Affairs.

(9) Investments in rural areas. “Rural area” means any open country or any place, town, village, or city which by itself and taken together with any other places, towns, villages, or cities that it is part of, or associated with, has either a population not exceeding 50,000 persons or has a population not exceeding 50,000 persons and is contained within a nonmetropolitan area. “Rural area” also means any open country, place, town, village, or city located within a Standard Metropolitan Statistical Area if the population of that area does not exceed 50,000 persons and that area is not part of, or associated with, an urban area and is rural in character.

(c) “Community development infrastructure” means California public debt (including all debt issued by the State of California or a California state or local government agency) where all or a portion of the debt has as its primary purpose community development for, or that directly benefits, low-~~or~~ to moderate-income communities and is consistent with subdivision (b).

(d) “Diverse investment managers” means investment management organizations, including, but not limited to, corporations, groups and persons within corporations, partnerships, limited liability companies, and other special purpose vehicles that are either located in, or actively make and hold investments in, California and whose investment managers are comprised of at least 51 percent women, veterans, or minorities, or a combination of persons in those groups.

~~(d)~~

(e) “Geography” means a census tract delineated by the United States Bureau of the Census in the most recent decennial census.

~~(e)~~

(f) “Green investments” means investments that emphasize renewable energy projects, economic development, and affordable housing focused on infill sites so as to reduce the degree of automobile dependency and promote the use and reuse of existing urbanized lands supplied with infrastructure for the purpose of accommodating new

growth and jobs. “Green investments” also means investments that can help communities grow through new capital investment in the maintenance and rehabilitation of existing infrastructure so that the reuse and reinvention of city centers and existing transportation corridors and community space, including projects offering energy efficiency improvements and renewable energy generation, including, but not limited to, solar and wind power, *water and waste management, sustainable agriculture*, mixed-use development, affordable housing opportunities, multimodal transportation systems, and transit-oriented development, can advance economic development, jobs, and housing.

(f)

(g) “High-impact investments” means investments that are ~~innovative, responsive to community needs, not routinely provided by insurers, or have a high degree of positive impact on the economic welfare of low or moderate income~~ *responsive to community needs and provide at least 51 percent social or environmental benefit to low-income* individuals, families, or communities in ~~urban or rural areas of~~ California.

(g)

(h) “Insurer” means an admitted insurer as defined in Section 24, including the State Compensation Insurance Fund, or a domestic fraternal benefit society as defined in Section 10990.

(h)

(i) “Investment” means a lawful equity or debt investment, or loan, or deposit obligation, or other investment or investment transaction allowed by the Insurance Code.

(i)

(j) “Low-income” means an individual income that is less than 50 percent of the AMI, or a median family income that is less than 50 percent of the AMI in the case of a geographical area.

(i)

(k) “MSA” means a metropolitan statistical area as defined by the Director of the Office of Management and Budget.

(k)

(l) “Moderate-income” means an individual income that is at least 50 percent but less than 80 percent of the AMI, or a median family income that is at least 50 percent but less than 80 percent of the AMI in the case of a geographical area.

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(m) “Nonmetropolitan area” means any area that is not located in an MSA.

SEC. 3.

Section 12209 of the Revenue and Taxation Code is amended to read:

12209.

(a) For each year beginning on or after January 1, 1999, and before January 1, ~~2017~~, ~~2019~~, 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, a credit shall not 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) A credit shall not 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 (h).

(3) (A) The aggregate amount of qualified investments made by all taxpayers pursuant to this section, Section 17053.57, and Section 23657 shall not exceed fifty million dollars (\$50,000,000) for each calendar year. However, if the aggregate amount of qualified investments made in any calendar year is less than fifty million dollars (\$50,000,000), 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.

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

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

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

(5) Priority shall be given to insurance company investors over all other tax credit investors.

(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) (A) 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.

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

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

(ii) The percentage of the intended use of the investment funds that would directly benefit ~~low to moderate income~~ *moderate-income, low-income, and very low income* households.

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

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

(v) The percentage of the intended use of the investment funds that would directly benefit a qualified low-income community business, as defined in paragraph (3) of subdivision (h).

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

(i) Name of the taxpayer.

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

(iii) Phone number of the taxpayer.

(iv) Email address of the taxpayer.

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

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

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

(e) The California Organized Investment Network may certify investments for the credit allowed by this section on or before January 1, ~~2017~~, 2019, but not after that date.

(f) (1) 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, adopt, amend, or repeal regulations to implement the provisions of this section.

(2) The initial adoption of the regulations implementing this section shall be deemed to be an emergency and necessary in order to address a situation calling for immediate action to avoid serious harm to the public peace, health, safety, or general welfare.

(3) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulation adopted or amended by the Insurance Commissioner pursuant to this section shall remain in effect until amended or repealed by the department.

(g) 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 (h). 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), with highest priority granted to those applications where the intended use of the investments has the greatest aggregate benefit for ~~low-to-moderate income~~ *low-income* areas or ~~households~~ *households*, *high-impact areas* or *households*, or rural areas or households. 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. The Insurance Commissioner

shall establish tax credit issuance cycles throughout the year as necessary in order to issue tax credit certificates to those applications granted the highest priority.

(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.

(h) 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 equity-like 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 legislative 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.

(3) “Qualified low-income community business” means a business independently owned and operated, not dominant in its field of operation, with less than 100 employees. In order for a business to be a qualified low-income community business, it shall also be one of the following:

(A) Exclusively located in a census tract with a poverty rate greater than 30 percent.

(B) Located within a nonmetropolitan area with a median family income that does not exceed 60 percent of median family income for the State of California.

(C) Located within a metropolitan area with a median family income that does not exceed 60 percent of the greater of the California median family income or the metropolitan area median family income.

(D) A census tract with an unemployment rate at least 1.5 times the national average.

(i) ~~(1)~~ If a qualified investment is *reduced or* 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.~~

(j) 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.

(k) 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.

(l) On or before June 30, 2016, the Legislative Analyst’s Office shall submit a report to the Legislature, in compliance with Section 9795 of the Government Code, on the effects of the tax credits allowed under this section, Section 17053.57, and Section 23657, 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.

(m) This section shall remain in effect only until December 1, ~~2017~~, 2019, and as of that date is repealed.

SEC. 4.

Section 12283 is added to the Revenue and Taxation Code, to read:

12283.

(a) There is hereby created the California New Markets Tax Credit Program as provided in this section, Section 17053.9, and Section 23622.9. The purpose of this program is to stimulate private sector investment in lower income communities by providing a tax incentive to community and economic development entities that can be leveraged by the entity to attract private sector investment that in turn will be deployed by providing financing and technical assistance to small- and medium-sized businesses and the development of commercial, industrial, and community development projects, including, but not limited to, facilities for nonprofit service organizations, light manufacturing, and mixed-use and transit-oriented development. RTCA shall administer this program as provided in this section, Section 17053.9, and Section 23622.9.

(b) (1) For taxable years beginning on or after January 1, 2018, and before January 1, 2023, and subject to subdivision (h), there shall be allowed as a credit against the tax described in Section 12201, in an amount determined in accordance with Section 45D of the Internal Revenue Code, relating to the new markets tax credit, as modified in this section.

(2) For the purposes of this section, "RTCA" means the Responsible Tax Credit Administrator, as designated by the Governor.

(c) Section 45D of the Internal Revenue Code is modified as follows:

(1) Section 45D(a)(2) of the Internal Revenue Code, relating to applicable percentage, is modified by substituting for "(A) 5 percent with respect to the first 3 credit allowance dates, and (B) 6 percent with respect to the remainder of the credit allowance dates" with the following:

(A) Zero percent with respect to the first two credit allowance dates.

(B) Seven percent with respect to the third credit allowance date.

(C) Eight percent with respect to the remainder of the credit allowance dates.

(2) (A) Section 45D(c)(1) of the Internal Revenue Code, relating to qualified community development entity, is modified to only include a qualified community development entity, that is certified by the Secretary of the Treasury, and its subsidiary qualified community development entities that have entered into an allocation agreement with the Community Development Financial Institutions Fund of

the United States Treasury Department, with respect to credits authorized by Section 45D of the Internal Revenue Code, that includes California within the service area and is dated on or after January 1, 2012.

(B) Section 45D(c)(2) of the Internal Revenue Code, relating to special rules for certain organizations, is modified to only include a specialized small business investment company or community development financial institution that entered into an allocation agreement with the Community Development Financial Institutions Fund of the United States Treasury Department, with respect to credits authorized by Section 45D of the Internal Revenue Code, that includes California within the service area and is dated on or after January 1, 2013.

(3) The term “qualified active low-income community business,” as defined in Section 45D(d)(2) of the Internal Revenue Code, is modified as follows:

(A) By substituting “any low-income community in California” for “any low-income community” every place it appears in Section 45D of the Internal Revenue Code.

(B) A qualified active low-income community business shall not include any business that derives, or projects to derive, 15 percent or more of its annual revenue from the rental or sale of real estate. This exclusion does not apply to a business that is controlled by, or under common control with, another business if the second business: (i) does not derive or project to derive 15 percent or more of its annual revenue from the rental or sale of real estate; and (ii) is the primary tenant of the real estate leased from the first business.

(C) A qualified active low-income community business shall only include a business that, at the time the initial investment is made, has 250 or fewer employees and is located in one or more California low-income communities. The operating business shall meet all other conditions of a qualified active low-income community business, except as modified by this paragraph. This requirement does not apply to a business that is located in a reservation-based community. “Reservation-based” means an area of land managed by a Native American tribe under the jurisdiction of the federal Bureau of Indian Affairs, provided that the tribe is named on the most current list of “Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs,” or successor document, as published in the Federal Register by the United States Bureau of Indian Affairs.

(D) A qualified active low-income community business shall only include a business located in census tracts with a poverty rate greater than 30 percent, or census tracts, if located within a nonmetropolitan area, with a median family income that does not exceed 60 percent of median family income for this state, or census tracts, if located within a metropolitan area, with a median family income that does not exceed 60

percent of the greater of the California median family income or the metropolitan area median family income, or census tracts with unemployment rates at least 1.5 times the national average.

(E) A qualified active low-income community business shall not include any business that operates or derives revenues from the operation of a country club, gaming establishment, massage parlor, liquor store, or golf course.

(F) A qualified active low-income community business shall not include a sexually oriented business. A “sexually oriented business” means a commercial enterprise that provides, or has provided in the 24 months prior to the date of the submission of an application described in subdivision (d) by the taxpayer, for an audience of two or more individuals live nude entertainment or live nude performances where the nudity is a function of everyday business operations and where nudity is a planned and intentional part of the entertainment or performance. “Nude” means clothed in a manner that leaves uncovered or visible, through less than fully opaque clothing, any portion of the genitals or, in the case of a female, any portion of the breasts below the top of the areola of the breasts.

(G) A qualified active low-income community business shall not include a charter school.

(4) Section 45D(f) of the Internal Revenue Code, relating to national limitation on amount of investments designated, is modified as follows:

(A) The following shall apply in lieu of the provisions of Section 45D(f)(1) of the Internal Revenue Code: The aggregate amount of qualified equity investments that may be allocated in any calendar year for purposes of this section, Section 17053.9, and Section 23622.9 shall be forty million dollars (\$40,000,000) per calendar year. The allocation of any undesignated qualified equity investments shall be returned to RTCA by March 1 of the year following allocation and the value of the undesignated qualified equity investment shall be available for allocation in the following calendar years in accordance with the application process. Any qualified equity investment attributable to recaptured credits shall be available to RTCA on March 1 of the year following recapture and shall be available for allocation in the following calendar years in accordance with subparagraph (C) of paragraph (5). Reallocated qualified equity investments attributable to recapture credits shall not count against the annual or the cumulative limit.

(B) The references to “the Secretary” in Section 45D(f)(2) of the Internal Revenue Code, relating to allocation of limitation, is modified to read “RTCA.”

(C) The last sentence of Section 45D(f)(3) of the Internal Revenue Code, relating to carryover of unused limitation, shall not apply.

(5) Section 45D(g)(3) of the Internal Revenue Code, relating to recapture event, is modified to add the following:

(A) The qualified community development entity fails to comply with subparagraph (D) of paragraph (5) of subdivision (d). In this case, recapture shall be 100 percent of the credit.

(B) RTCA shall establish a process, in consultation with the Department of Insurance, for the recapture of credits allowed under this section from the entity that claimed the credit on a return.

(C) Recaptured qualified equity investments revert back to RTCA and shall be reissued. The reissue shall not count toward the annual or cumulative allocation limitation. The reissue shall be done in the following order:

(i) First, pro rata to applicants whose qualified equity investment allocations were reduced pursuant to subparagraph (E) of paragraph (5) of subdivision (d) by the annual allocation limitation.

(ii) Thereafter, in accordance with the application process.

(D) Enforcement of each of the recapture provisions shall be subject to a six-month cure period.

(d) (1) RTCA shall adopt guidelines necessary or appropriate to carry out its responsibilities with respect to the allocation, monitoring, and management of the tax credit program authorized by this section.

(2) (A) RTCA shall establish and impose reasonable fees upon entities that apply for the allocation pursuant to this subdivision that in the aggregate defray the cost of reviewing applications for the program. RTCA may impose other reasonable fees upon entities that receive the allocation pursuant to this subdivision that in the aggregate defray the cost of administering the program.

(B) The fees collected shall be deposited in the California New Markets Tax Credit Fund established in Section 18410.3.

(3) In developing guidelines, RTCA shall adopt an allocation process that does all of the following:

(A) Creates an equitable distribution process that ensures that low-income community populations across the state have an opportunity to benefit from the program.

(B) Sets minimum organizational capacity standards that applicants must meet in order to receive an allocation of authority to designate qualified equity investments,

including, but not limited to, its business strategy, targeted community outcomes, capitalization strategy, and management capacity.

(C) Considers the qualified community development entity's prior qualified low-income community investments under Section 45D of the Internal Revenue Code.

(D) Considers the qualified community development entity's prior qualified low-income community investments under this section, including subparagraph (D) of paragraph (5).

(4) (A) Subject to subdivision (h), RTCA shall begin accepting applications on or before May 15, 2018, and shall award authority to designate qualified equity investments annually through 2022.

(B) In the instance where RTCA determines that an application is incomplete, the qualified community development entity shall be given five business days to provide the omitted information.

(5) (A) In the 2018 awards cycle, RTCA shall award authority to designate qualified equity investments to qualified community development entities described in paragraph (2) of subdivision (c) in the order applications are received by RTCA. Applications received on the same day shall be deemed to have been received simultaneously.

(B) In the 2019 to 2022 award cycles, inclusive, at least 60 percent of the authority to designate qualified equity investments shall be awarded pursuant to subparagraph (A). At the discretion of RTCA, a higher percentage of authority to designate qualified equity investments may be awarded pursuant to subparagraph (A).

(C) RTCA shall award up to 40 percent of the authority to designate qualified equity investments in the 2019 to 2022, inclusive, award cycles, to qualified community development entities on a competitive basis that meets the following criteria:

(i) Awards shall be reviewed using blind scoring and a review committee that is composed of community development finance practitioners and members having demonstrated experience in assessing organizational business strategy, community outcomes, capitalization strategy, and management capacity.

(ii) A member of the review committee shall not have a financial interest, which includes, but is not limited to, asking, consenting, or agreeing to receive any commission, emolument, gratuity, money, property, or thing of value for his or her own use, benefit, or personal advantage for procuring or endeavoring to procure for any person, partnership, joint venture, association, or corporation any qualified equity investment or other assistance from any applicant.

(iii) Priority shall be provided to both of the following:

(I) Applications that commit to addressing the hardest to serve and undercapitalized lower income populations.

(II) Applications that support neighborhood revitalization strategies driven by local grassroots stakeholders in multiple low-income communities across one or more regions or the state. These applications shall demonstrate how their investment activity provides a scalable economic development model.

(D) For applications described in subparagraphs (A) and (B), applications for awards shall include a commitment to make at least 15 percent of qualified community development investments to a qualified community development entity with the assistance of a nonprofit organization, as documented by a cooperation agreement that states the terms and conditions of that assistance. For the purposes of this subparagraph, the following shall apply:

(i) A qualified community development entity shall be certified under Section 45D of the Internal Revenue Code but has not received a federal New Markets Tax Credit allocation on or after January 1, 2012, and has either a local service area that includes one or more California communities or a California statewide service area, but excluding qualified community development entities with a national service area.

(ii) A nonprofit organization shall meet all of the following requirements: Is tax exempt under Section 23701, is registered with the Registry of Charitable Trusts, which is administered by the Attorney General, has articles of incorporation or articles of organization that state the primary mission of the organization is focused on improving the economic well-being of low-income communities or individuals, and has bylaws that provide that the organization maintains accountability to residents of low-income communities through their representation on any governing board or on an advisory board of the nonprofit organization.

(E) (i) For applications described in subparagraph (A), in the event requests for authority to designate qualified equity investments exceed the applicable annual allocation limitation, RTCA shall certify, consistent with remaining qualified equity investment capacity, qualified equity investments of applicants in proportionate percentages based upon the ratio of the amount of qualified equity investments requested in such applications to the total amount of qualified equity investments requested in all such applications received on the same day.

(ii) If a pending request cannot be fully certified due to this limit, RTCA shall certify the portion that may be certified unless the qualified community development entity elects to withdraw its request rather than receive partial certification.

(F) An approved applicant may transfer all or a portion of its certified qualified equity investment authority to its controlling entity or any subsidiary qualified community development entity of the controlling entity, provided that the applicant and the transferee notify RTCA within 30 calendar days of such transfer and include the information required in the application with respect to such transferee with such notice. The transferee shall be subject to the same rules, requirements, and limitations applicable to the transferor.

(G) Within 200 calendar days of RTCA sending notice of certification, the qualified community development entity or any transferee, under subparagraph (F), shall issue the qualified equity investment and receive cash in the amount of the certified amount. The qualified community development entity or transferee, under subparagraph (F), shall provide RTCA with evidence of the receipt of the cash investment within 205 calendar days of the applicant receiving notice of certification. If the qualified community development entity or any transferee, under subparagraph (F), does not receive the cash investment and issue the qualified equity investment within 200 calendar days of RTCA sending the certification notice, the certification shall lapse and the entity may not issue the qualified equity investment without reapplying to RTCA for certification. Lapsed certifications revert back to RTCA and shall be reissued in the following order:

(i) First, pro rata to applicants whose qualified equity investment allocations were reduced pursuant to subparagraph (E) under the annual allocation limitation of forty million dollars (\$40,000,000) in paragraph (4) of subdivision (c).

(ii) Thereafter, in accordance with the application process.

(H) A qualified community development entity that issues qualified equity investments shall notify RTCA of the names of taxpayers that are eligible to utilize tax credits pursuant to this section and any transfer of a qualified equity investment.

(6) (A) A qualified community development entity that issues qualified equity investments shall submit a report to RTCA that provides documentation as to the investment of at least 85 percent of the funds being deployed within one year in qualified low-income community investments in qualified active low-income community businesses located in California. Such report shall include all of the following:

(i) A bank statement of such qualified community development entity evidencing each qualified low-income community investment.

(ii) Evidence that such business was a qualified active low-income community business at the time of such qualified low-income community investment.

(iii) Evidence that the community development entity complied with subparagraph (D) of paragraph (5).

(iv) Any other information required by RTCA as being necessary to meet the requirements of this section.

(B) Thereafter, the qualified community development entity shall submit an annual report to RTCA during the seven years following submittal of the report, pursuant to subparagraph (A). No annual report shall be due prior to the first anniversary of the initial credit allowance date. The report shall include, but is not limited to, the following:

(i) The social, environmental, and economic impact the credit had on the low-income community during the report period and cumulatively.

(ii) The amount of moneys used for qualified low-income investments in qualified low-income community businesses.

(iii) The number of employment positions created and retained as a result of qualified low-income community investments and the average annual salary of such positions.

(iv) The number of operating businesses assisted as a result of qualified low-income community investments, by industry and number of employees.

(v) Number of owner-occupied real estate projects.

(vi) Location of each qualified low-income community business assisted by a qualified low-income community investment.

(vii) Summary of the outcomes of each of the revenue impact assessments undertaken by the qualified community development entity during the year.

(viii) Any other information requested by RTCA.

(e) (1) In the case where the credit allowed by this section exceeds the tax described in Section 12201, the excess may be carried over to reduce that tax in the following year, and the six succeeding years if necessary, until the credit is exhausted.

(2) A taxpayer allowed a credit under this section for a qualified equity investment shall not be eligible for any other credit under this part with respect to that investment.

(3) The credit allowed under this section may be in addition to any credit allowed under Section 45D of the Internal Revenue Code.

(f) RTCA shall annually report on its Internet Web site the information provided by low-income community development entities and on the geographic distribution of the qualified active low-income community businesses assisted.

(g) (1) The Insurance Commissioner may prescribe any rules or regulations that may be necessary or appropriate to implement this section. The Insurance Commissioner shall have access to any documentation held by RTCA relative to the application and reporting of a qualified community development entity.

(2) A qualified community development entity shall provide RTCA with the name, address, and tax identification number of each investor and entity for which a qualified equity investment was designated by the qualified community development entity, pursuant to this section. RTCA shall provide this information to the Insurance Commissioner in a manner determined by the Insurance Commissioner.

(h) (1) The credit authorized by this section shall only be allowed for those taxable years for which moneys are appropriated to RTCA to administer the California New Markets Tax Credit pursuant to 18410.3 for that taxable year. The appropriation shall specifically identify the California New Markets Tax Credit.

(2) For those taxable years for which those moneys are appropriated pursuant to paragraph (1), RTCA shall post notice of the appropriation on the homepage of its Internet Web site and send notice of such appropriation to the Secretary of State and the Legislative Counsel.

(i) This section shall be repealed on December 1, 2023.

SEC. 5.

Section 17053.9 is added to the Revenue and Taxation Code, to read:

17053.9.

(a) There is hereby created the California New Markets Tax Credit Program as provided in this section, Section 12283, and Section 23622.9. The purpose of this program is to stimulate private sector investment in lower income communities by providing a tax incentive to community and economic development entities that can be leveraged by the entity to attract private sector investment that in turn will be deployed by providing financing and technical assistance to small- and medium-sized businesses and the development of commercial, industrial, and community development projects, including, but not limited to, facilities for nonprofit service organizations, light manufacturing, and mixed-use and transit-oriented development. RTCA shall administer this program as provided in this section, Section 12283, and Section 23622.9.

(b) (1) For taxable years beginning on or after January 1, 2018, and before January 1, 2023, and subject to subdivision (h), there shall be allowed as a credit against the “net tax,” as defined in Section 17039, in an amount determined in accordance with Section 45D of the Internal Revenue Code, relating to the new markets tax credit, as modified in this section.

(2) For the purposes of this section, “RTCA” means the Responsible Tax Credit Administrator, as designated by the Governor.

(c) Section 45D of the Internal Revenue Code is modified as follows:

(1) Section 45D(a)(2) of the Internal Revenue Code, relating to applicable percentage, is modified by substituting for “(A) 5 percent with respect to the first 3 credit allowance dates, and (B) 6 percent with respect to the remainder of the credit allowance dates” with the following:

(A) Zero percent with respect to the first two credit allowance dates.

(B) Seven percent with respect to the third credit allowance date.

(C) Eight percent with respect to the remainder of the credit allowance dates.

(2) (A) Section 45D(c)(1) of the Internal Revenue Code, relating to qualified community development entity, is modified to only include a qualified community development entity, that is certified by the Secretary of the Treasury, and its subsidiary qualified community development entities that have entered into an allocation agreement with the Community Development Financial Institutions Fund of the United States Treasury Department, with respect to credits authorized by Section 45D of the Internal Revenue Code, that includes California within the service area and is dated on or after January 1, 2012.

(B) Section 45D(c)(2) of the Internal Revenue Code, relating to special rules for certain organizations, is modified to only include a specialized small business investment company or community development financial institution that entered into an allocation agreement with the Community Development Financial Institutions Fund of the United States Treasury Department, with respect to credits authorized by Section 45D of the Internal Revenue Code, that includes California within the service area and is dated on or after January 1, 2013.

(3) The term “qualified active low-income community business,” as defined in Section 45D(d)(2) of the Internal Revenue Code, is modified as follows:

(A) By substituting “any low-income community in California” for “any low-income community” every place it appears in Section 45D of the Internal Revenue Code.

(B) A qualified active low-income community business shall not include any business that derives, or projects to derive, 15 percent or more of its annual revenue from the rental or sale of real estate. This exclusion does not apply to a business that is controlled by, or under common control with, another business if the second business: (i) does not derive or project to derive 15 percent or more of its annual revenue from the rental or sale of real estate; and (ii) is the primary tenant of the real estate leased from the first business.

(C) A qualified active low-income community business shall only include a business that, at the time the initial investment is made, has 250 or fewer employees and is located in one or more California low-income communities. The operating business shall meet all other conditions of a qualified active low-income community business, except as modified by this paragraph. This requirement does not apply to a business that is located in a reservation-based community. "Reservation-based" means an area of land managed by a Native American tribe under the jurisdiction of the federal Bureau of Indian Affairs, provided that the tribe is named on the most current list of "Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs," or successor document, as published in the Federal Register by the United States Bureau of Indian Affairs.

(D) A qualified active low-income community business shall only include a business located in census tracts with a poverty rate greater than 30 percent, or census tracts, if located within a nonmetropolitan area, with a median family income that does not exceed 60 percent of median family income for this state, or census tracts, if located within a metropolitan area, with a median family income that does not exceed 60 percent of the greater of the California median family income or the metropolitan area median family income, or census tracts with unemployment rates at least 1.5 times the national average.

(E) A qualified active low-income community business shall not include any business that operates or derives revenues from the operation of a country club, gaming establishment, massage parlor, liquor store, or golf course.

(F) A qualified active low-income community business shall not include a sexually oriented business. A "sexually oriented business" means a commercial enterprise that provides, or has provided in the 24 months prior to the date of the submission of an application described in subdivision (d) by the taxpayer, for an audience of two or more individuals live nude entertainment or live nude performances where the nudity is a function of everyday business operations and where nudity is a planned and intentional part of the entertainment or performance. "Nude" means clothed in a manner that leaves uncovered or visible, through less than fully opaque clothing, any portion of the genitals or, in the case of a female, any portion of the breasts below the top of the areola of the breasts.

(G) A qualified active low-income community business shall not include a charter school.

(4) Section 45D(f) of the Internal Revenue Code, relating to national limitation on amount of investments designated, is modified as follows:

(A) The following shall apply in lieu of the provisions of Section 45D(f)(1) of the Internal Revenue Code: The aggregate amount of qualified equity investments that may be allocated in any calendar year for purposes of this section, Section 12283, and Section 23622.9 shall be forty million dollars (\$40,000,000) per calendar year. The allocation of any undesignated qualified equity investments shall be returned to RTCA by March 1 of the year following allocation and the value of the undesignated qualified equity investment shall be available for allocation in the following calendar years in accordance with the application process. Any qualified equity investment attributable to recaptured credits shall be available to RTCA on March 1 of the year following recapture and shall be available for allocation in the following calendar years in accordance with clause (iii) of subparagraph (B) of paragraph (5). Reallocated qualified equity investments attributable to recapture credits shall not count against the annual or the cumulative limit.

(B) The references to “the Secretary” in Section 45D(f)(2) of the Internal Revenue Code, relating to allocation of limitation, is modified to read “RTCA.”

(C) The last sentence of Section 45D(f)(3) of the Internal Revenue Code, relating to carryover of unused limitation, shall not apply.

(5) (A) Section 45D(g)(2)(B) of the Internal Revenue Code, relating to credit recapture amount, is modified to substitute “Section 19101 of this code” for “Section 6621.”

(B) Section 45D(g)(3) of the Internal Revenue Code, relating to recapture event, is modified to add the following:

(i) The qualified community development entity fails to comply with subparagraph (D) of paragraph (5) of subdivision (d). In this case, recapture shall be 100 percent of the credit.

(ii) RTCA shall establish a process, in consultation with the Franchise Tax Board, for the recapture of credits allowed under this section from the entity that claimed the credit on a return.

(iii) Recaptured qualified equity investments revert back to RTCA and shall be reissued. The reissue shall not count toward the annual or cumulative allocation limitation. The reissue shall be done in the following order:

(I) First, pro rata to applicants whose qualified equity investment allocations were reduced pursuant to subparagraph (E) of paragraph (5) of subdivision (d) by the annual allocation limitation.

(II) Thereafter, in accordance with the application process.

(iv) Enforcement of each of the recapture provisions shall be subject to a six-month cure period.

(d) (1) RTCA shall adopt guidelines necessary or appropriate to carry out its responsibilities with respect to the allocation, monitoring, and management of the tax credit program authorized by this section.

(2) (A) RTCA shall establish and impose reasonable fees upon entities that apply for the allocation pursuant to this subdivision that in the aggregate defray the cost of reviewing applications for the program. RTCA may impose other reasonable fees upon entities that receive the allocation pursuant to this subdivision that in the aggregate defray the cost of administering the program.

(B) The fees collected shall be deposited in the California New Markets Tax Credit Fund established in Section 18410.3.

(3) In developing guidelines, RTCA shall adopt an allocation process that does all of the following:

(A) Creates an equitable distribution process that ensures that low-income community populations across the state have an opportunity to benefit from the program.

(B) Sets minimum organizational capacity standards that applicants must meet in order to receive an allocation of authority to designate qualified equity investments, including, but not limited to, its business strategy, targeted community outcomes, capitalization strategy, and management capacity.

(C) Considers the qualified community development entity's prior qualified low-income community investments under Section 45D of the Internal Revenue Code.

(D) Considers the qualified community development entity's prior qualified low-income community investments under this section, including subparagraph (D) of paragraph (5).

(4) (A) Subject to subdivision (h), RTCA shall begin accepting applications on or before May 15, 2018, and shall award authority to designate qualified equity investments annually through 2022.

(B) In the instance where RTCA determines that an application is incomplete, the qualified community development entity shall be given five business days to provide the omitted information.

(5) (A) In the 2018 awards cycle, RTCA shall award authority to designate qualified equity investments to qualified community development entities described in paragraph (2) of subdivision (c) in the order applications are received by RTCA. Applications received on the same day shall be deemed to have been received simultaneously.

(B) In the 2019 to 2022 award cycles, inclusive, at least 60 percent of the authority to designate qualified equity investments shall be awarded pursuant to subparagraph (A). At the discretion of RTCA, a higher percentage of authority to designate qualified equity investments may be awarded pursuant to subparagraph (A).

(C) RTCA shall award up to 40 percent of the authority to designate qualified equity investments in the 2019 to 2022, inclusive, award cycles, to qualified community development entities on a competitive basis that meets the following criteria:

(i) Awards shall be reviewed using blind scoring and a review committee that is composed of community development finance practitioners and members having demonstrated experience in assessing organizational business strategy, community outcomes, capitalization strategy, and management capacity.

(ii) A member of the review committee shall not have a financial interest, which includes, but is not limited to, asking, consenting, or agreeing to receive any commission, emolument, gratuity, money, property, or thing of value for his or her own use, benefit, or personal advantage for procuring or endeavoring to procure for any person, partnership, joint venture, association, or corporation any qualified equity investment or other assistance from any applicant.

(iii) Priority shall be provided to both of the following:

(I) Applications that commit to addressing the hardest to serve and undercapitalized lower income populations.

(II) Applications that support neighborhood revitalization strategies driven by local grassroots stakeholders in multiple low-income communities across one or more regions or the state. These applications shall demonstrate how their investment activity provides a scalable economic development model.

(D) For applications described in subparagraphs (A) and (B), applications for awards shall include a commitment to make at least 15 percent of qualified community development investments to a qualified community development entity with the

assistance of a nonprofit organization as documented by a cooperation agreement that states the terms and conditions of that assistance. For the purposes of this subparagraph, the following shall apply:

(i) A qualified community development entity shall be certified under Section 45D of the Internal Revenue Code but has not received a federal New Markets Tax Credit allocation on or after January 1, 2012, and has either a local service area that includes one or more California communities or a California statewide service area, but excluding qualified community development entities with a national service area.

(ii) A nonprofit organization shall meet all of the following requirements: Is tax exempt under Section 23701, is registered with the Registry of Charitable Trusts, which is administered by the Attorney General, has articles of incorporation or articles of organization that state the primary mission of the organization is focused on improving the economic well-being of low-income communities or individuals, and has bylaws that provide that the organization maintains accountability to residents of low-income communities through their representation on any governing board or on an advisory board of the nonprofit organization.

(E) (i) For applications described in subparagraph (A), in the event requests for authority to designate qualified equity investments exceed the applicable annual allocation limitation, RTCA shall certify, consistent with remaining qualified equity investment capacity, qualified equity investments of applicants in proportionate percentages based upon the ratio of the amount of qualified equity investments requested in such applications to the total amount of qualified equity investments requested in all such applications received on the same day.

(ii) If a pending request cannot be fully certified due to this limit, RTCA shall certify the portion that may be certified unless the qualified community development entity elects to withdraw its request rather than receive partial certification.

(F) An approved applicant may transfer all or a portion of its certified qualified equity investment authority to its controlling entity or any subsidiary qualified community development entity of the controlling entity, provided that the applicant and the transferee notify RTCA within 30 calendar days of such transfer and include the information required in the application with respect to such transferee with such notice. The transferee shall be subject to the same rules, requirements, and limitations applicable to the transferor.

(G) Within 200 calendar days of RTCA sending notice of certification, the qualified community development entity or any transferee, under subparagraph (F), shall issue the qualified equity investment and receive cash in the amount of the certified amount. The qualified community development entity or transferee, under subparagraph (F),

shall provide RTCA with evidence of the receipt of the cash investment within 205 calendar days of the applicant receiving notice of certification. If the qualified community development entity or any transferee, under subparagraph (F), does not receive the cash investment and issue the qualified equity investment within 200 calendar days of RTCA sending the certification notice, the certification shall lapse and the entity may not issue the qualified equity investment without reapplying to RTCA for certification. Lapsed certifications revert back to RTCA and shall be reissued in the following order:

(i) First, pro rata to applicants whose qualified equity investment allocations were reduced pursuant to subparagraph (E) under the annual allocation limitation of forty million dollars (\$40,000,000) in paragraph (4) of subdivision (c).

(ii) Thereafter, in accordance with the application process.

(H) A qualified community development entity that issues qualified equity investments shall notify RTCA of the names of taxpayers that are eligible to utilize tax credits pursuant to this section and any transfer of a qualified equity investment.

(6) (A) A qualified community development entity that issues qualified equity investments shall submit a report to RTCA that provides documentation as to the investment of at least 85 percent of the funds being deployed within one year in qualified low-income community investments in qualified active low-income community businesses located in California. Such report shall include all of the following:

(i) A bank statement of such qualified community development entity evidencing each qualified low-income community investment.

(ii) Evidence that such business was a qualified active low-income community business at the time of such qualified low-income community investment.

(iii) Evidence that the community development entity complied with subparagraph (D) of paragraph (5).

(iv) Any other information required by RTCA as being necessary to meet the requirements of this section.

(B) Thereafter, the qualified community development entity shall submit an annual report to RTCA during the seven years following submittal of the report, pursuant to subparagraph (A). No annual report shall be due prior to the first anniversary of the initial credit allowance date. The report shall include, but is not limited to, the following:

(i) The social, environmental, and economic impact the credit had on the low-income community during the report period and cumulatively.

(ii) The amount of moneys used for qualified low-income investments in qualified low-income community businesses.

(iii) The number of employment positions created and retained as a result of qualified low-income community investments and the average annual salary of such positions.

(iv) The number of operating businesses assisted as a result of qualified low-income community investments, by industry and number of employees.

(v) Number of owner-occupied real estate projects.

(vi) Location of each qualified low-income community business assisted by a qualified low-income community investment.

(vii) Summary of the outcomes of each of the revenue impact assessments undertaken by the qualified community development entity during the year.

(viii) Any other information requested by RTCA.

(e) (1) In the case where the credit allowed by this section exceeds the “net tax,” the excess may be carried over to reduce the “net tax” in the following year, and the six succeeding years if necessary, until the credit is exhausted.

(2) A taxpayer allowed a credit under this section for a qualified equity investment shall not be eligible for any other credit under this part with respect to that investment.

(3) The credit allowed under this section may be in addition to any credit allowed under Section 45D of the Internal Revenue Code.

(f) RTCA shall annually report on its Internet Web site the information provided by low-income community development entities and on the geographic distribution of the qualified active low-income community businesses assisted.

(g) (1) The Franchise Tax Board may prescribe any rules or regulations that may be necessary or appropriate to implement this section. The Franchise Tax Board shall have access to any documentation held by RTCA relative to the application and reporting of a qualified community development entity.

(2) A qualified community development entity shall provide RTCA with the name, address, and tax identification number of each investor and entity for which a qualified equity investment was designated by the qualified community development entity, pursuant to this section. RTCA shall provide this information to the Franchise Tax Board in a manner determined by the Franchise Tax Board.

(h) (1) The credit authorized by this section shall only be allowed for those taxable years for which moneys are appropriated to RTCA to administer the California New Markets Tax Credit pursuant to 18410.3 for that taxable year. The appropriation shall specifically identify the California New Markets Tax Credit.

(2) For those taxable years for which those moneys are appropriated pursuant to paragraph (1), RTCA shall post notice of the appropriation on the homepage of its Internet Web site and send notice of such appropriation to the Secretary of State and the Legislative Counsel.

(i) This section shall be repealed on December 1, 2023.

SEC. 6.

Section 17053.57 of the Revenue and Taxation Code is amended to read:

17053.57.

(a) For each taxable year beginning on or after January 1, 1997, and before January 1, ~~2017~~, ~~2019~~, there shall be allowed as a credit against the amount of “net tax,” as defined in Section 17039, 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) (1) Notwithstanding any other provision of this part, a credit shall not 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) A credit shall not 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).

(3) (A) The aggregate amount of qualified investments made by all taxpayers pursuant to this section, Section 12209, and Section 23657 shall not exceed fifty million dollars (\$50,000,000) for each calendar year. However, if the aggregate amount of qualified investments made in any calendar year is less than fifty million dollars (\$50,000,000), 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.

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

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

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

(5) Priority shall be given to insurance company investors over all other tax credit investors.

(c) 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) (A) 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.

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

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

(ii) The percentage of the intended use of the investment funds that would directly benefit ~~low to moderate income~~ *moderate-income, low-income, and very low income* households.

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

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

(v) The percentage of the intended use of the investment funds that would directly benefit a qualified low-income community business, as defined in paragraph (3) of subdivision (g).

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

(i) Name of the taxpayer.

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

(iii) Phone number of the taxpayer.

(iv) Email address of the taxpayer.

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

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

(4) Provide an annual listing to the Franchise Tax Board, in the form and manner agreed upon by the Franchise Tax Board and the Department of Insurance, California Organized Investment Network, or its successor, of the names and taxpayer 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 of Insurance, California Organized Investment Network, or any successor thereof, as required pursuant to subdivision (a) of Section 12939.1 of the Insurance Code.

(d) (1) 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, adopt, amend, or repeal regulations to implement the provisions of this section.

(2) The initial adoption of the regulations implementing this section shall be deemed to be an emergency and necessary in order to address a situation calling for immediate action to avoid serious harm to the public peace, health, safety, or general welfare.

(3) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulation adopted or amended by the Insurance Commissioner pursuant to this section shall remain in effect until amended or repealed by the department.

(e) The California Organized Investment Network may certify investments for the credit allowed by this section on or before January 1, ~~2017~~, 2019, but not after that date.

(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 a 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 (b), with highest priority granted to those applications where the intended use of the investments has the greatest aggregate benefit for ~~low-to-moderate-income~~ *low-income* areas or ~~households~~ *households, high-impact areas or households*, or rural areas or households. 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 taxable year. Applications for tax credits shall be accepted and evaluated throughout the year. The Insurance Commissioner shall establish tax credit issuance cycles throughout the year as necessary in order to issue tax credit certificates to those applications granted the highest priority.

(3) Provide an annual listing to the Franchise Tax Board, in the form or manner agreed upon by the Franchise Tax Board and the Department of Insurance, California

Organized Investment Network, or its successor, of the taxpayers who were issued certificates, their respective tax identification numbers, 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 equity-like 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 legislative 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.

(3) “Qualified low-income community business” means a business independently owned and operated, not dominant in its field of operation, with less than 100 employees. In order for a business to be a qualified low-income community business, it shall also be one of the following:

(A) Exclusively located in a census tract with a poverty rate greater than 30 percent.

(B) Located within a nonmetropolitan area with a median family income that does not exceed 60 percent of median family income for the State of California.

(C) Located within a metropolitan area with a median family income that does not exceed 60 percent of the greater of the California median family income or the metropolitan area median family income.

(D) A census tract with an unemployment rate at least 1.5 times the national average.

(h) ~~(1)~~ If a qualified investment is *reduced or* 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 “net tax,” as defined in Section 17039, for the taxable 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 “net tax,” as defined in Section 17039, for the taxable year in which the reduction occurs, an amount equal to 20 percent of the total reduction for the taxable year.~~

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

(j) The Franchise Tax Board 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) On or before June 30, 2016, the Legislative Analyst’s Office shall submit a report to the Legislature, in compliance with Section 9795 of the Government Code, on the effects of the tax credits allowed under this section, Section 12209, and Section 23657, 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.

(l) This section shall remain in effect only until December 1, ~~2017~~, 2019, and as of that date is repealed.

SEC. 7.

Section 18410.3 is added to the Revenue and Taxation Code, to read:

18410.3.

(a) The California New Markets Tax Credit Fund is hereby established in the State Treasury.

(b) Upon annual appropriation, moneys in the fund shall be used for the purposes described in subdivision (d) of Section 12283, subdivision (d) of Section 17053.9, and subdivision (d) of Section 23622.9.

SEC. 8.

Section 23622.9 is added to the Revenue and Taxation Code, to read:

23622.9.

(a) There is hereby created the California New Markets Tax Credit Program as provided in this section, Section 12283, and Section 17053.9. The purpose of this program is to stimulate private sector investment in lower income communities by providing a tax incentive to community and economic development entities that can be leveraged by the entity to attract private sector investment that in turn will be deployed by providing financing and technical assistance to small- and medium-sized businesses and the development of commercial, industrial, and community development projects, including, but not limited to, facilities for nonprofit service organizations, light manufacturing, and mixed-use and transit-oriented development. RTCA shall administer this program as provided in this section, Section 12283, and Section 17053.9.

(b) (1) For taxable years beginning on or after January 1, 2018, and before January 1, 2023, and subject to subdivision (h), there shall be allowed as a credit against the “tax,” as defined in Section 23036, in an amount determined in accordance with Section 45D of the Internal Revenue Code, relating to the new markets tax credit, as modified in this section.

(2) For the purposes of this section, “RTCA” means the Responsible Tax Credit Administrator, as designated by the Governor.

(c) Section 45D of the Internal Revenue Code is modified as follows:

(1) Section 45D(a)(2) of the Internal Revenue Code, relating to applicable percentage, is modified by substituting for “(A) 5 percent with respect to the first 3 credit allowance dates, and (B) 6 percent with respect to the remainder of the credit allowance dates” with the following:

(A) Zero percent with respect to the first two credit allowance dates.

(B) Seven percent with respect to the third credit allowance date.

(C) Eight percent with respect to the remainder of the credit allowance dates.

(2) (A) Section 45D(c)(1) of the Internal Revenue Code, relating to qualified community development entity, is modified to only include a qualified community development entity, that is certified by the Secretary of the Treasury, and its subsidiary qualified community development entities that have entered into an allocation agreement with the Community Development Financial Institutions Fund of the United States Treasury Department, with respect to credits authorized by Section 45D of the Internal Revenue Code, that includes California within the service area and is dated on or after January 1, 2012.

(B) Section 45D(c)(2) of the Internal Revenue Code, relating to special rules for certain organizations, is modified to only include a specialized small business investment company or community development financial institution that entered into an allocation agreement with the Community Development Financial Institutions Fund of the United States Treasury Department, with respect to credits authorized by Section 45D of the Internal Revenue Code, that includes California within the service area and is dated on or after January 1, 2013.

(3) The term “qualified active low-income community business,” as defined in Section 45D(d)(2) of the Internal Revenue Code, is modified as follows:

(A) By substituting “any low-income community in California” for “any low-income community” every place it appears in Section 45D of the Internal Revenue Code.

(B) A qualified active low-income community business shall not include any business that derives, or projects to derive, 15 percent or more of its annual revenue from the rental or sale of real estate. This exclusion does not apply to a business that is controlled by, or under common control with, another business if the second business: (i) does not derive or project to derive 15 percent or more of its annual revenue from the rental or sale of real estate; and (ii) is the primary tenant of the real estate leased from the first business.

(C) A qualified active low-income community business shall only include a business that, at the time the initial investment is made, has 250 or fewer employees and is located in one or more California low-income communities. The operating business shall meet all other conditions of a qualified active low-income community business, except as modified by this paragraph. This requirement does not apply to a business that is located in a reservation-based community. “Reservation-based” means an area of land managed by a Native American tribe under the jurisdiction of the federal Bureau of Indian Affairs, provided that the tribe is named on the most current list of “Indian Entities Recognized and Eligible to Receive Services from the United States

Bureau of Indian Affairs,” or successor document, as published in the Federal Register by the United States Bureau of Indian Affairs.

(D) A qualified active low-income community business shall only include a business located in census tracts with a poverty rate greater than 30 percent, or census tracts, if located within a nonmetropolitan area, with a median family income that does not exceed 60 percent of median family income for this state, or census tracts, if located within a metropolitan area, with a median family income that does not exceed 60 percent of the greater of the California median family income or the metropolitan area median family income, or census tracts with unemployment rates at least 1.5 times the national average.

(E) A qualified active low-income community business shall not include any business that operates or derives revenues from the operation of a country club, gaming establishment, massage parlor, liquor store, or golf course.

(F) A qualified active low-income community business shall not include a sexually oriented business. A “sexually oriented business” means a commercial enterprise that provides, or has provided in the 24 months prior to the date of the submission of an application described in subdivision (d) by the taxpayer, for an audience of two or more individuals live nude entertainment or live nude performances where the nudity is a function of everyday business operations and where nudity is a planned and intentional part of the entertainment or performance. “Nude” means clothed in a manner that leaves uncovered or visible, through less than fully opaque clothing, any portion of the genitals or, in the case of a female, any portion of the breasts below the top of the areola of the breasts.

(G) A qualified active low-income community business shall not include a charter school.

(4) Section 45D(f) of the Internal Revenue Code, relating to national limitation on amount of investments designated, is modified as follows:

(A) The following shall apply in lieu of the provisions of Section 45D(f)(1) of the Internal Revenue Code: The aggregate amount of qualified equity investments that may be allocated in any calendar year for purposes of this section, Section 12283, and Section 17053.9 shall be forty million dollars (\$40,000,000) per calendar year. The allocation of any undesignated qualified equity investments shall be returned to RTCA by March 1 of the year following allocation and the value of the undesignated qualified equity investment shall be available for allocation in the following calendar years in accordance with the application process. Any qualified equity investment attributable to recaptured credits shall be available to RTCA on March 1 of the year following recapture and shall be available for allocation in the following calendar

years in accordance with clause (iii) of subparagraph (B) of paragraph (5). Reallocated qualified equity investments attributable to recapture credits shall not count against the annual or the cumulative limit.

(B) The references to “the Secretary” in Section 45D(f)(2) of the Internal Revenue Code, relating to allocation of limitation, is modified to read “RTCA.”

(C) The last sentence of Section 45D(f)(3) of the Internal Revenue Code, relating to carryover of unused limitation, shall not apply.

(5) (A) Section 45D(g)(2)(B) of the Internal Revenue Code, relating to credit recapture amount, is modified to substitute “Section 19101 of this code” for “Section 6621.”

(B) Section 45D(g)(3) of the Internal Revenue Code, relating to recapture event, is modified to add the following:

(i) The qualified community development entity fails to comply with subparagraph (D) of paragraph (5) of subdivision (d). In this case, recapture shall be 100 percent of the credit.

(ii) RTCA shall establish a process, in consultation with the Franchise Tax Board, for the recapture of credits allowed under this section from the entity that claimed the credit on a return.

(iii) Recaptured qualified equity investments revert back to RTCA and shall be reissued. The reissue shall not count toward the annual or cumulative allocation limitation. The reissue shall be done in the following order:

(I) First, pro rata to applicants whose qualified equity investment allocations were reduced pursuant to subparagraph (E) of paragraph (5) of subdivision (d) by the annual allocation limitation.

(II) Thereafter, in accordance with the application process.

(iv) Enforcement of each of the recapture provisions shall be subject to a six-month cure period.

(d) (1) RTCA shall adopt guidelines necessary or appropriate to carry out its responsibilities with respect to the allocation, monitoring, and management of the tax credit program authorized by this section.

(2) (A) RTCA shall establish and impose reasonable fees upon entities that apply for the allocation pursuant to this subdivision that in the aggregate defray the cost of reviewing applications for the program. RTCA may impose other reasonable fees

upon entities that receive the allocation pursuant to this subdivision that in the aggregate defray the cost of administering the program.

(B) The fees collected shall be deposited in the California New Markets Tax Credit Fund established in Section 18410.3.

(3) In developing guidelines, RTCA shall adopt an allocation process that does all of the following:

(A) Creates an equitable distribution process that ensures that low-income community populations across the state have an opportunity to benefit from the program.

(B) Sets minimum organizational capacity standards that applicants must meet in order to receive an allocation of authority to designate qualified equity investments, including, but not limited to, its business strategy, targeted community outcomes, capitalization strategy, and management capacity.

(C) Considers the qualified community development entity's prior qualified low-income community investments under Section 45D of the Internal Revenue Code.

(D) Considers the qualified community development entity's prior qualified low-income community investments under this section, including subparagraph (D) of paragraph (5).

(4) (A) Subject to subdivision (h), RTCA shall begin accepting applications on or before May 15, 2018, and shall award authority to designate qualified equity investments annually through 2022.

(B) In the instance where RTCA determines that an application is incomplete, the qualified community development entity shall be given five business days to provide the omitted information.

(5) (A) In the 2018 awards cycle, RTCA shall award authority to designate qualified equity investments to qualified community development entities described in paragraph (2) of subdivision (c) in the order applications are received by RTCA. Applications received on the same day shall be deemed to have been received simultaneously.

(B) In the 2019 to 2022 award cycles, inclusive, at least 60 percent of the authority to designate qualified equity investments shall be awarded pursuant to subparagraph (A). At the discretion of RTCA, a higher percentage of authority to designate qualified equity investments may be awarded pursuant to subparagraph (A).

(C) RTCA shall award up to 40 percent of the authority to designate qualified equity investments in the 2019 to 2022, inclusive, award cycles, to qualified community development entities on a competitive basis that meets the following criteria:

(i) Awards shall be reviewed using blind scoring and a review committee that is composed of community development finance practitioners and members having demonstrated experience in assessing organizational business strategy, community outcomes, capitalization strategy, and management capacity.

(ii) A member of the review committee shall not have a financial interest, which includes, but is not limited to, asking, consenting, or agreeing to receive any commission, emolument, gratuity, money, property, or thing of value for his or her own use, benefit, or personal advantage for procuring or endeavoring to procure for any person, partnership, joint venture, association, or corporation any qualified equity investment or other assistance from any applicant.

(iii) Priority shall be provided to both of the following:

(I) Applications that commit to addressing the hardest to serve and undercapitalized lower income populations.

(II) Applications that support neighborhood revitalization strategies driven by local grassroots stakeholders in multiple low-income communities across one or more regions or the state. These applications shall demonstrate how their investment activity provides a scalable economic development model.

(D) For applications described in subparagraphs (A) and (B), applications for awards shall include a commitment to make at least 15 percent of qualified community development investments to a qualified community development entity with the assistance of a nonprofit organization as documented by a cooperation agreement that states the terms and conditions of that assistance. For the purposes of this subparagraph, the following shall apply:

(i) A qualified community development entity shall be certified under Section 45D of the Internal Revenue Code but has not received a federal New Markets Tax Credit allocation on or after January 1, 2012, and has either a local service area that includes one or more California communities or a California statewide service area, but excluding qualified community development entities with a national service area.

(ii) A nonprofit organization shall meet all of the following requirements: Is tax exempt under Section 23701, is registered with the Registry of Charitable Trusts, which is administered by the Attorney General, has articles of incorporation or articles of organization that state the primary mission of the organization is focused on improving the economic well-being of low-income communities or individuals, and

has bylaws that provide that the organization maintains accountability to residents of low-income communities through their representation on any governing board or on an advisory board of the nonprofit organization.

(E) (i) For applications described in subparagraph (A), in the event requests for authority to designate qualified equity investments exceed the applicable annual allocation limitation, RTCA shall certify, consistent with remaining qualified equity investment capacity, qualified equity investments of applicants in proportionate percentages based upon the ratio of the amount of qualified equity investments requested in such applications to the total amount of qualified equity investments requested in all such applications received on the same day.

(ii) If a pending request cannot be fully certified due to this limit, RTCA shall certify the portion that may be certified unless the qualified community development entity elects to withdraw its request rather than receive partial certification.

(F) An approved applicant may transfer all or a portion of its certified qualified equity investment authority to its controlling entity or any subsidiary qualified community development entity of the controlling entity, provided that the applicant and the transferee notify RTCA within 30 calendar days of such transfer and include the information required in the application with respect to such transferee with such notice. The transferee shall be subject to the same rules, requirements, and limitations applicable to the transferor.

(G) Within 200 calendar days of RTCA sending notice of certification, the qualified community development entity or any transferee, under subparagraph (F), shall issue the qualified equity investment and receive cash in the amount of the certified amount. The qualified community development entity or transferee, under subparagraph (F), shall provide RTCA with evidence of the receipt of the cash investment within 205 calendar days of the applicant receiving notice of certification. If the qualified community development entity or any transferee, under subparagraph (F), does not receive the cash investment and issue the qualified equity investment within 200 calendar days of RTCA sending the certification notice, the certification shall lapse and the entity may not issue the qualified equity investment without reapplying to RTCA for certification. Lapsed certifications revert back to RTCA and shall be reissued in the following order:

(i) First, pro rata to applicants whose qualified equity investment allocations were reduced pursuant to subparagraph (E) under the annual allocation limitation of forty million dollars (\$40,000,000) in paragraph (4) of subdivision (c).

(ii) Thereafter, in accordance with the application process.

(H) A qualified community development entity that issues qualified equity investments shall notify RTCA of the names of taxpayers that are eligible to utilize tax credits pursuant to this section and any transfer of a qualified equity investment.

(6) (A) A qualified community development entity that issues qualified equity investments shall submit a report to RTCA that provides documentation as to the investment of at least 85 percent of the funds being deployed within one year in qualified low-income community investments in qualified active low-income community businesses located in California. Such report shall include all of the following:

(i) A bank statement of such qualified community development entity evidencing each qualified low-income community investment.

(ii) Evidence that such business was a qualified active low-income community business at the time of such qualified low-income community investment.

(iii) Evidence that the community development entity complied with subparagraph (D) of paragraph (5).

(iv) Any other information required by RTCA as being necessary to meet the requirements of this section.

(B) Thereafter, the qualified community development entity shall submit an annual report to RTCA during the seven years following submittal of the report, pursuant to subparagraph (A). No annual report shall be due prior to the first anniversary of the initial credit allowance date. The report shall include, but is not limited to, the following:

(i) The social, environmental, and economic impact the credit had on the low-income community during the report period and cumulatively.

(ii) The amount of moneys used for qualified low-income investments in qualified low-income community businesses.

(iii) The number of employment positions created and retained as a result of qualified low-income community investments and the average annual salary of such positions.

(iv) The number of operating businesses assisted as a result of qualified low-income community investments, by industry and number of employees.

(v) Number of owner-occupied real estate projects.

(vi) Location of each qualified low-income community business assisted by a qualified low-income community investment.

(vii) Summary of the outcomes of each of the revenue impact assessments undertaken by the qualified community development entity during the year.

(viii) Any other information requested by RTCA.

(e) (1) In the case where the credit allowed by this section exceeds the “tax,” the excess may be carried over to reduce the “tax” in the following year, and the six succeeding years if necessary, until the credit is exhausted.

(2) A taxpayer allowed a credit under this section for a qualified equity investment shall not be eligible for any other credit under this part with respect to that investment.

(3) The credit allowed under this section may be in addition to any credit allowed under Section 45D of the Internal Revenue Code.

(f) RTCA shall annually report on its Internet Web site the information provided by low-income community development entities and on the geographic distribution of the qualified active low-income community businesses assisted.

(g) (1) The Franchise Tax Board may prescribe any rules or regulations that may be necessary or appropriate to implement this section. The Franchise Tax Board shall have access to any documentation held by RTCA relative to the application and reporting of a qualified community development entity.

(2) A qualified community development entity shall provide RTCA with the name, address, and tax identification number of each investor and entity for which a qualified equity investment was designated by the qualified community development entity, pursuant to this section. RTCA shall provide this information to the Franchise Tax Board in a manner determined by the Franchise Tax Board.

(h) (1) The credit authorized by this section shall only be allowed for those taxable years for which moneys are appropriated to RTCA to administer the California New Markets Tax Credit pursuant to 18410.3 for that taxable year. The appropriation shall specifically identify the California New Markets Tax Credit.

(2) For those taxable years for which those moneys are appropriated pursuant to paragraph (1), RTCA shall post notice of the appropriation on the homepage of its Internet Web site and send notice of such appropriation to the Secretary of State and the Legislative Counsel.

(i) This section shall be repealed on December 1, 2023.

SEC. 9.

Section 23657 of the Revenue and Taxation Code is amended to read:

(a) For each taxable year beginning on or after January 1, 1997, and before January 1, ~~2017~~, 2019, there shall be allowed as a credit against the amount of “tax,” as defined in Section 23036, 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) (1) Notwithstanding any other provision of this part, a credit shall not 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) A credit shall not 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).

(3) (A) The aggregate amount of qualified investments made by all taxpayers pursuant to this section, Section 12209, and Section 17053.57 shall not exceed fifty million dollars (\$50,000,000) for each calendar year. However, if the aggregate amount of qualified investments made in any calendar year is less than fifty million dollars (\$50,000,000), 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.

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

(C) Each year, 10 percent of the annual aggregate amount of qualified investments shall be reserved for investment amounts of less than or equal to two hundred thousand dollars (\$200,000). If, after October 1, there remains an unallocated portion of the amount reserved for investments of less than or equal to two hundred thousand

dollars (\$200,000), then qualified investments in excess of two hundred thousand dollars (\$200,000) may be eligible for that remaining unallocated portion.

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

(5) Priority shall be given to insurance company investors over all other tax credit investors.

(c) 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) (A) 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.

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

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

(ii) The percentage of the intended use of the investment funds that would directly benefit ~~low-to-moderate-income~~ *moderate-income, low-income, and very low income* households.

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

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

(v) The percentage of the intended use of the investment funds that would directly benefit a qualified low-income community business, as defined in paragraph (3) of subdivision (g).

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

(i) Name of the taxpayer.

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

(iii) Phone number of the taxpayer.

(iv) Email address of the taxpayer.

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

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

(4) Provide an annual listing to the Franchise Tax Board, in the form and manner agreed upon by the Franchise Tax Board and the Department of Insurance, California Organized Investment Network, or its successor, of the names and taxpayer 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, California Organized Investment Network, or any successor thereof, as required pursuant to subdivision (a) of Section 12939.1 of the Insurance Code.

(d) The California Organized Investment Network may certify investments for the credit allowed by this section on or before January 1, ~~2017~~, 2019, but not after that date.

(e) (1) 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, adopt, amend, or repeal regulations to implement the provisions of this section.

(2) The initial adoption of the regulations implementing this section shall be deemed to be an emergency and necessary in order to address a situation calling for immediate action to avoid serious harm to the public peace, health, safety, or general welfare.

(3) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulation adopted or amended by the Insurance Commissioner pursuant to this section shall remain in effect until amended or repealed by the department.

(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 (b), with highest priority granted to those applications where the intended use of the investments has the greatest aggregate benefit for ~~low-to-moderate income~~ *low-income* areas or ~~households~~ *households*, *high-impact areas* or *households*, or rural areas or households. 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 taxable year. Applications for tax credits shall be accepted and evaluated throughout the year. The Insurance Commissioner shall establish tax credit issuance cycles throughout the year as necessary in order to issue tax credit certificates to those applications granted the highest priority.

(3) Provide an annual listing to the Franchise Tax Board, in the form or manner agreed upon by the Franchise Tax Board and the Department of Insurance, California Organized Investment Network, or its successor, of the taxpayers who were issued certificates, their respective tax identification numbers, 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 equity-like 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 legislative 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.

(3) “Qualified low-income community business” means a business independently owned and operated, not dominant in its field of operation, with less than 100 employees. In order for a business to be a qualified low-income community business, it shall also be one of the following:

(A) Exclusively located in a census tract with a poverty rate greater than 30 percent.

(B) Located within a nonmetropolitan area with a median family income that does not exceed 60 percent of median family income for the State of California.

(C) Located within a metropolitan area with a median family income that does not exceed 60 percent of the greater of the California median family income or the metropolitan area median family income.

(D) A census tract with an unemployment rate at least 1.5 times the national average.

(h) ~~(H)~~ If a qualified investment is *reduced or* 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 23036, for the

taxable 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 23036, for the taxable year in which the reduction occurs, an amount equal to 20 percent of the total reduction for the taxable 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 taxable years, or until the credit has been exhausted, whichever occurs first.

(j) The Franchise Tax Board 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) On or before June 30, 2016, the Legislative Analyst’s Office shall submit a report to the Legislature, in compliance with Section 9795 of the Government Code, on the effects of the tax credits allowed under this section, Section 12209, and Section 17053.57, 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.

(l) This section shall remain in effect only until December 1, ~~2017~~, 2019, and as of that date is repealed.

SEC. 10.

For the purposes of complying with Section 41 of the Revenue and Taxation Code, with respect to Sections 12283, 17053.9, and 23622.9 of the Revenue and Taxation Code, as proposed to be added by Sections 4, 5, and 8 of this act, the Legislature finds and declares as follows:

(a) Specific goals, purposes, and objectives: attract private sector investment in lower income communities in California.

(b) Performance indicators:

(1) Amount of qualified low-income community investments issued.

(2) Amount of dollars deployed in qualified low-income community investments.

(3) Number of operating businesses assisted as a result of qualified low-income community investments. This data shall be compared to business development, including startups, tax revenues, and new investments within the most immediate

geographic area for which data is reasonably available for the 12 and 24 months prior to the date on which any tax credits are allowed by Section 12283, 17053.9, or 23622.9 of the Revenue and Taxation Code.

(4) Number of employment positions created and retained as a result of qualified low-income community investments and the average annual salary of those positions. These numbers shall be compared to the area median income and unemployment and poverty rates for the most immediate geographic areas for which data is reasonably available for the 12 and 24 months prior to the date on which any tax credits are allowed by Section 12283, 17053.9, or 23622.9 of the Revenue and Taxation Code.

(c) Data collection requirements and baseline measurements:

(1) The baseline measurements include:

(A) The amount of tax credits issued in the year.

(B) The unemployment rate of the area.

(C) The poverty rate of the area.

(2) Data to collect includes:

(A) The amount of tax credits issued in the year.

(B) The number of operating businesses located in a low-income community that are assisted.

(C) The number of jobs created and retained as a result of qualified low-income community investments.

SEC. 11.

The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 12.

This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to preserve, at the earliest possible time, a program that spurs investment in, and positive impact on, economically vulnerable individuals, families, and communities in this state, it is necessary that this act take effect immediately.

