# SENATE COMMITTEE ON INSURANCE
**Senator Susan Rubio, Chair**
**2021 - 2022 Regular**

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| **Bill No:** | SB 713 | **Hearing Date:** | March 25, 2021 |
| **Author:** | Rubio | | |
| **Version:** | March 10, 2021 | | |
| **Urgency:** | No | **Fiscal:** | Yes |
| **Consultant:** | Brian Flemmer | | |

**SUBJECT:** Insurer and State Compensation Insurance Fund investments

**DIGEST:** Adds flexibility to the leeway law, which governs how insurers may make certain investments, in order to encourage insurers to make more California Organized Investment Network (COIN) qualified investments. These include investments in renewable energy and community development. The bill authorizes similar diversification of State Compensation Insurance Fund investments until January 1, 2027, by authorizing limited discretionary authority to make Environmental, Social, or Governance (ESG) investments in line with existing authorities for other insurers, specifically in properties and securities, and money market mutual funds.

**ANALYSIS:**

Existing law:

1) Establishes COIN within CDI, with the purpose of encouraging insurers to invest in community development investments and facilitating those investments.

2) Requires insurers to report specified investments as defined ("data call") and requires CDI to report those investments and other information.

   a) Requires any insurer that writes at least $100 million in California premium to report to COIN program by July 1, 2021, various categories of investments for several prior years including community development investments and "green investments," as defined.

      i) "Community development investments" defined as investments where all or part of the investment has as its primary purpose community development for, or that directly benefits, California low or moderate income (LMI) individuals, families, or communities. Defines subcategories including those related to affordable housing; community service providers; activities that revitalize or stabilize LMI communities; investments in a community development financial institution (CDFI); community development infrastructure that includes certain types of California debt.

      ii) "Green investments" that including renewable energy, infill housing, etc.

      iii) "High-impact investments" defined as 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 individuals, families, or communities.

b) Requires CDI to report on its website, by December 31, 2021, aggregate data relating to specific insurer investments; insurers that make high-impact investments; and actions taken by COIN to analyze the data in order to create and identify potential investments opportunities. Also requires CDI to report:

i) Aggregate data relating to insurers' community development investments;

ii) Analysis of this data by CDI for the purpose of creating and identifying potential community development investment opportunities;

iii) Data relating to state and local government debt purchased by insurers; and

iv) Data on the aggregate insurer investment in green investments.

c) Sunsets the data call and reporting provisions on January 1, 2024.

3) Authorizes a domestic incorporated insurer to make discretionary investments after investment of an amount equal to its required minimum paid-in capital in specified securities. Also known as the "Leeway Law," these discretionary investments may include the purchase of, or loans upon, properties and securities, but are limited to the lesser of 5% of the insurer's admitted assets or 50% of the excess of admitted assets over the sum of capital paid up, liabilities, and a required surplus.

4) Establishes the State Compensation Insurance Fund to be administered by a board of directors for the purpose of transacting workers' compensation insurance and other public employment-related insurances.

a) Requires the board to invest and reinvest all moneys in the State Compensation Insurance Fund in excess of current requirements in the same manner as is authorized in certain provisions applicable to private insurance carriers. Existing law.

b) Prohibits the board from investing or reinvesting in certain investments, including real estate and call options on common stock.

c) Until January 1, 2025, authorizes the board to invest or reinvest an aggregated maximum of 20% of the moneys that are in excess of the admitted assets over the liabilities and required reserves in specified investments, including the stock of certain corporations and specified mortgage-related investment instruments.

This bill:

1) Increases the "leeway law" limitation if the Insurance Commissioner approves the amount and terms of the investment in advance and the investment is deemed a qualified COIN investment.

2) Requires the Commissioner to submit a report to the committees of the Senate and Assembly Insurance Committees on or before December 31, 2025, regarding the investments made due to the increased limitation.

3) Until January 1, 2027, would authorize the State Compensation Insurance Fund to make discretionary investments in properties and securities, and to invest in money market mutual funds. Those investments shall not exceed the lesser of 2.5 percent of its admitted assets or 10 percent of moneys that are in excess of the admitted assets over the liabilities and required reserves.

**Background**

According to the Author, "COIN works to increase insurance industry investment in underserved and rural California communities by implementing a data call for large insurers on qualifying investments that offer environmental and social benefits. Expanding COIN investments will provide a critical source of funding for developing green technologies and solving our affordable housing crisis. By making similar changes to the types of discretionary investments available to State Fund, SB 713 will make State Fund more competitive, benefiting California's businesses that rely on State Fund for workers compensation coverage".

The COIN Program was created in 1996 as a public/private partnership between CDI, the insurance industry, state government leaders, and community development organizations. COIN's goal is to help address unmet capital needs that support investments in economic development and affordable housing in low-income urban and rural communities throughout California. The program serves as a liaison between insurers that are seeking investment opportunities and the community organizations that are seeking investment capital for projects.

The COIN program may be viewed as implementing two functions: facilitating socially beneficial investments and reporting insurer investments. The program has historically facilitated investments through its "matchmaking" functions and through a tax credit. The program also collects information on insurer investments, scrutinizes those investments for compliance with program criteria, and reports the results on the CDI website.

*Data Call*. In order to track and report COIN investments, COIN issues a data call that requires insurers to report their qualified investments. Investments are submitted, scrutinized by COIN, and reported on the CDI website. The last data call was implemented in 2016 and CDI's report posted on its website. According to the report, insurance companies operating in California with over $100 million of direct premiums written held almost $22 billion of COIN qualified investments at year-end 2015. AB 1099 (Calderon) revived the data call and will require insurers to report investment data for calendar years 2016, 2017, 2018, 2019, and 2020 by July 1, 2021.

*Matchmaking*. Investments that insurers report include those that they identify on their own and submit for certification by COIN. They may also select investments sourced or structured by COIN program staff. To encourage investment, COIN notifies insurers of potential qualified investments and has established the Impact Investment Marketplace, links those seeking capital for community development investments with insurers looking to make COIN qualified investments at competitive financial returns in numerous ways, including investment bulletins.

*Advisory Board*. The COIN advisory board membership is composed of the Insurance Commissioner or his or her designee, three executives in the insurance investment industry, and several volunteers as specified. The Senate Rules Committee and the Speaker of the Assembly each appoint one member. The purpose of the board is to advise COIN on the best methods of increasing the level of insurance industry capital; facilitate contact among industry executives, community-based organizations, and CDFIs; and recommend programmatic guidelines. The board is one way of matching the industry to the community building a network among insurance company executives, community-based organizations, and community development financial institutions in order to facilitate interest in COIN targeted investments. The bill extends the sunset date on the COIN's advisory board to 2029.

*Tax Credit*. A Community Development Financial Institution (CDFI) is a bank, credit union, or non-profit institution certified by COIN by demonstrating that it is a private financial institution located in California, its primary mission is community development, and that it lends in urban, rural or reservation-based communities in California.

Until 2016, COIN administered a tax credit for qualified investments made in a CDFI. The program provided a 20% credit for investments of $50,000 or more, but total qualifying investments were capped at $50 million annually ($10 million in tax credits). COIN allocated the tax credits based on the anticipated impact of the proposed projects on LMI communities. These investments provide low- to no-cost mechanisms to fund projects such as affordable housing and community centers. The credit expired in 2017 and subsequent attempts to revive it were vetoed.

*The State Compensation Insurance Fund* Created by statute in 1914, the State Compensation Insurance Fund ("State Fund") serves as a workers' compensation insurer for the State as well as to ensure all employers have access to coverage. The State Fund is required to maintain enough market share to remain financially stable and provide quality services, but not compete for increased market share or make a profit. The State Fund also serves as a third-party administrator for self-insured public and private employers.

State Fund is self-supported with premiums and investment income. It does not receive any financial support from the State and the State is not liable for any of its obligations. The Governor appoints nine members of the governing board, including one from organized labor, and names the chairperson; the Speaker of the Assembly appoints one member who represents organized labor; and the Senate Committee on Rules appoints one member to represent policyholders. The board also includes the Department of Industrial Relations Director as a non-voting "ex-officio" member. State Fund's market share fluctuates, with a high of 53% reported in 2000-01, to a low of 10% in 2012. In 2017, State Fund wrote $1.3 billion in premium, had investment income of $619 million, and a net income of $40 million.

State Fund's board, by passage of written resolutions, periodically adopts written investment guidelines that implement the statutory investment authority. The Board reviews and ratifies all portfolio investments made for State Fund and CDI's Financial Surveillance Branch reviews State Fund's financial statements and schedules to ensure and maintain financial stability and viability necessary to provide the benefits and protection they have promised their California policyholders, just like it does for private companies.

This legislation would allow State Fund to access additional investment opportunities already available to private insurers within California. State fund argues this will result in the ability to price more competitively and help businesses save money, and that without these changes, the current ultra-low interest rate environment could cause decreasing returns and impact their ability to provide financial support to California businesses, including recent COVID-19 safety support grants (approx. $44 million) and 2019 and 2020 dividend declarations ($274 million total).

**Related/Prior Legislation**

AB 1099 (Calderon, Chapter 186, Statutes of 2019), extended the sunset date on the COIN program, renewed the COIN data call, and expanded the categories of qualified investments.

AB 2128 (Gordon, Chapter 384, Statutes of 2014), made various changes to the COIN program.

AB 32 (Pérez, Chapter 608, Statutes of 2013), increased from $10 million to $50 million the amount of investments the COIN can certify for the Community Development Financial Institution Credit (CDFI) credits each year.

AB 624 (Pérez, Chapter 436, Statutes of 2011), extended the CDFI investments tax credit until January 1, 2017. This bill also authorizes the Insurance Commissioner to establish a California Organized Investment Network Advisory Board until January 1, 2015

AB 1011 (Jones, Chapter 418, Statutes of 2010), required the Department of Insurance to specifically collect data from insurers and to share it on its Web site related to the aggregate amount of insurer investments in green investments as part of their community development and community development infrastructure.

**ARGUMENTS IN SUPPORT:**

SCIF writes in support, "State Compensation Insurance Fund (State Fund) is co-sponsoring SB 713. This bill supports positive environmental and social impact investments in California by providing insurance companies with the ability to increase their California Organized Investment Network (COIN)-qualified investment holdings. It also allows State Fund to invest in additional Environmental, Social, and Governance (ESG) investments by expanding our investment authority to include limited 'discretionary' investments as described in the Leeway Law, as well as limited money-market mutual funds. While private insurers have this discretionary investment authority, we do not."

Also in Support, CDI writes, "The majority of the socially responsible investments that are high impact and COIN-qualified fall under Schedule BA, one of six National Association of Insurance Commissioners (NAIC) schedules that insurance companies use to report their investments. These investments are unrated long-term investments that include, but are not limited to, privately held funds such as private equity, venture capital, joint ventures, and LLCs, which are subject to California's Leeway Law. The Leeway Law is a calculation used under existing law to determine an insurance company's threshold to make high-risk investments, given that the insurer already holds its minimum capital requirement for low-risk investments as specified…Current law also only permits California domiciled insurance companies to invest a defined amount in investments not permitted under other Insurance Code sections. Given this existing restriction, insurance companies typically choose investments with greater returns and fewer risks so as not to jeopardize their solvency and their ability to pay consumer claims.

SB 713 expands current law, until January 1, 2027, to permit California domiciled insurance companies to invest in more Schedule BA investments that have social and environmental benefits if these investments are: (1) subject to Commissioner approval; and, (2) subject to qualification by COIN as a qualified investment. This expansion would provide insurance companies with the ability to increase their COIN-qualified investment holdings without substantially altering the capital needed to meet their current and long-term liabilities. Furthermore, this expansion would benefit Californians in low- to-moderate-income and rural communities and increase capital in California's small businesses affected by the COVID pandemic, affordable housing projects, and green investments."

**SUPPORT:**

California Department of Insurance (Co-Sponsor)
State Compensation Insurance Fund (Co-Sponsor)
Clearinghouse CDFI
Enhanced Capital
St. Cloud Capital, LLC.
The Doctors Company

**OPPOSITION:**

None on File (3-21-21)

**-- END --**