

AMENDED IN SENATE MARCH 26, 2001

**SENATE BILL**

**No. 73**

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**Introduced by Senator Dunn**

**(Principal coauthor: ~~Senator~~ *Senators Scott and Torlakson*)**

**(Principal coauthors: Assembly Members ~~Keeley-Diaz, Keeley,~~  
*Lowenthal, and Migden*)**

January 10, 2001

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An act to amend Sections 12206, 17058, and 23610.5 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 73, as amended, Dunn. Taxation: low-income housing.

Existing insurance tax law and the Personal Income Tax Law and the Bank and Corporation Tax Law authorize, for so long as corresponding provisions of federal law are in effect, a credit against the taxes imposed by those state laws for certain amounts with respect to the provision of specified low-income housing. Those laws generally provide, subject to the addition of certain other amounts, that the maximum aggregate dollar amount of the credits allowed in each calendar year may not exceed \$50,000,000 for the 1999 calendar year and each year thereafter.

This bill would, for purposes of existing low-income housing tax credits, provide a \$70,000,000 maximum aggregate dollar amount for the 2001 calendar year and each calendar year thereafter. In addition, this bill would for the 2002 calendar year, and, each calendar year thereafter, provide an adjustment for inflation measured by an increase in the Consumer Price Index.

This bill would take effect immediately as a tax levy.

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

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

1 SECTION 1. Section 12206 of the Revenue and Taxation  
2 Code is amended to read:  
3 12206. (a) (1) There shall be allowed as a credit against the  
4 “tax” (as defined by Section 12201) a state low-income housing  
5 tax credit in an amount equal to the amount determined in  
6 subdivision (c), computed in accordance with Section 42 of the  
7 Internal Revenue Code, except as otherwise provided in this  
8 section.  
9 (2) “Taxpayer,” for purposes of this section, means the sole  
10 owner in the case of a C corporation, the partners in the case of a  
11 partnership, and the shareholders in the case of an S corporation.  
12 (3) “Housing sponsor,” for purposes of this section, means the  
13 sole owner in the case of a C corporation, the partnership in the  
14 case of a partnership, and the S corporation in the case of an S  
15 corporation.  
16 (b) (1) The amount of the credit allocated to any housing  
17 sponsor shall be authorized by the California Tax Credit  
18 Allocation Committee, or any successor thereof, based on a  
19 project’s need for the credit for economic feasibility in accordance  
20 with the requirements of this section.  
21 (A) The low-income housing project shall be located in  
22 California and shall meet either of the following requirements:  
23 (i) The project’s housing sponsor shall have been allocated by  
24 the California Tax Credit Allocation Committee a credit for  
25 federal income tax purposes under Section 42 of the Internal  
26 Revenue Code.  
27 (ii) It shall qualify for a credit under Section 42(h)(4)(B) of the  
28 Internal Revenue Code.  
29 (B) The California Tax Credit Allocation Committee shall not  
30 require fees for the credit under this section in addition to those  
31 fees required for applications for the tax credit pursuant to Section  
32 42 of the Internal Revenue Code. The committee may require a fee  
33 if the application for the credit under this section is submitted in  
34 a calendar year after the year the application is submitted for the  
35 federal tax credit.



1 (2) (A) The California Tax Credit Allocation Committee shall  
2 certify to the housing sponsor the amount of tax credit under this  
3 section allocated to the housing sponsor for each credit period.

4 (B) In the case of a partnership or an S corporation, the housing  
5 sponsor shall provide a copy of the California Tax Credit  
6 Allocation Committee certification to the taxpayer.

7 (C) The taxpayer shall attach a copy of the certification to any  
8 return upon which a tax credit is claimed under this section.

9 (D) In the case of a failure to attach a copy of the certification  
10 for the year to the return in which a tax credit is claimed under this  
11 section, no credit under this section shall be allowed for that year  
12 until a copy of that certification is provided.

13 (E) All elections made by the taxpayer pursuant to Section 42  
14 of the Internal Revenue Code shall apply to this section.

15 (F) No credit shall be allocated under this section to buildings  
16 located in a difficult development area or a qualified census tract  
17 as defined in Section 42 of the Internal Revenue Code for which  
18 the eligible basis of a new building or the rehabilitation  
19 expenditure of an existing building is 130 percent of that amount  
20 pursuant to Section 42(d)(5)(C) of the Internal Revenue Code,  
21 unless the committee reduces the amount of federal credit, with the  
22 approval of the applicant, so that the combined amount of federal  
23 and state credit shall not exceed the total credit allowable pursuant  
24 to this section and Section 42(b) of the Internal Revenue Code,  
25 computed without regard to Section 42(d)(5)(C) of the Internal  
26 Revenue Code.

27 (c) Section 42(b) of the Internal Revenue Code shall be  
28 modified as follows:

29 (1) In the case of any qualified low-income building that  
30 receives an allocation after 1989 and is a new building not  
31 federally subsidized, the term “applicable percentage” means the  
32 following:

33 (A) For each of the first three years, the percentage prescribed  
34 by the Secretary of the Treasury for new buildings that are not  
35 federally subsidized for the taxable year, determined in  
36 accordance with the requirements of Section 42(b)(2) of the  
37 Internal Revenue Code, in lieu of the percentage prescribed in  
38 Section 42(b)(1)(A) of the Internal Revenue Code.

39 (B) For the fourth year, the difference between 30 percent and  
40 the sum of the applicable percentages for the first three years.



1 (2) In the case of any qualified low-income building that  
2 receives an allocation after 1989 and that is a new building that is  
3 federally subsidized or that is an existing building that is “at risk  
4 of conversion,” the term “applicable percentage” means the  
5 following:

6 (A) For each of the first three years, the percentage prescribed  
7 by the Secretary of the Treasury for new buildings that are  
8 federally subsidized for the taxable year.

9 (B) For the fourth year, the difference between 13 percent and  
10 the sum of the applicable percentages for the first three years.

11 (3) For purposes of this section, the term “at risk of  
12 conversion,” with respect to an existing building means a building  
13 that satisfies all of the following criteria:

14 (A) The building is presently owned by a housing sponsor other  
15 than a qualified nonprofit organization.

16 (B) The building is a federally assisted building for which the  
17 low-income use restrictions will terminate or the mortgage on the  
18 building is eligible for incentives under Subtitle 13 of the  
19 Emergency Low Income Housing Assistance Act of 1987 or under  
20 Section 502(c) of the Housing Act of 1949, anytime in the two  
21 calendar years after the year of application to the California Tax  
22 Credit Allocation Committee, and the purchaser has received  
23 preliminary approval from the applicable federal agency for a  
24 maximum level of incentives through a plan of action.

25 (C) The person acquiring the building enters into a regulatory  
26 agreement that requires the building to be operated in accordance  
27 with the requirements of this section for a period equal to the  
28 greater of 55 years or the life of the building.

29 (D) The building satisfies the requirements of Section 42(e) of  
30 the Internal Revenue Code regarding rehabilitation expenditures,  
31 except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not  
32 apply.

33 (d) The term “qualified low-income housing project” as  
34 defined in Section 42(c)(2) of the Internal Revenue Code is  
35 modified by adding the following requirements:

36 (1) The taxpayer shall be entitled to receive a cash distribution  
37 from the operations of the project, after funding required reserves,  
38 which, at the election of the taxpayer, is equal to:

39 (A) An amount not to exceed 8 percent of the lesser of:



1 (i) The owner equity which shall include the amount of the  
2 capital contributions actually paid to the housing sponsor and shall  
3 not include any amounts until they are paid on an investor note.

4 (ii) Twenty percent of the adjusted basis of the building as of  
5 the close of the first ~~income~~ *taxable* year of the credit period.

6 (B) The amount of the cash-flow from those units in the  
7 building that are not low-income units. For purposes of computing  
8 cash-flow under this subparagraph, operating costs shall be  
9 allocated to the low-income units using the “floor space fraction,”  
10 as defined in Section 42 of the Internal Revenue Code.

11 (C) Any amount allowed to be distributed under subparagraph  
12 (A) that is not available for distribution during the first five years  
13 of the compliance period may accumulate and be distributed any  
14 time during the first 15 years of the compliance period but not  
15 thereafter.

16 (2) The limitation on return shall apply in the aggregate to the  
17 partners if the housing sponsor is a partnership and in the aggregate  
18 to the shareholders if the housing sponsor is an S corporation.

19 (3) The housing sponsor shall apply any cash available for  
20 distribution in excess of the amount eligible to be distributed under  
21 paragraph (1) to reduce the rent on rent-restricted units or to  
22 increase the number of rent-restricted units subject to the tests of  
23 Section 42(g)(1) of the Internal Revenue Code.

24 (e) The provisions of Section 42(f) of the Internal Revenue  
25 Code shall be modified as follows:

26 (1) The term “credit period” as defined in Section 42(f)(1) of  
27 the Internal Revenue Code is modified by substituting “four  
28 ~~income~~ *taxable* years” for “10 taxable years.”

29 (2) The special rule for the first taxable year of the credit period  
30 under Section 42(f)(2) of the Internal Revenue Code shall not  
31 apply to the tax credit under this section.

32 (3) Section 42(f)(3) of the Internal Revenue Code is modified  
33 to read:

34 If, as of the close of any taxable year in the compliance period,  
35 after the first year of the credit period, the qualified basis of any  
36 building exceeds the qualified basis of that building as of the close  
37 of the first year of the credit period, the housing sponsor, to the  
38 extent of its tax credit allocation, shall be eligible for a credit on  
39 the excess in an amount equal to the applicable percentage  
40 determined pursuant to subdivision (c) for the four-year period



1 beginning with the later of the taxable years in which the increase  
2 in qualified basis occurs.

3 (f) The provisions of Section 42(h) of the Internal Revenue  
4 Code shall be modified as follows:

5 (1) Section 42(h)(2) of the Internal Revenue Code shall not be  
6 applicable and instead the following provisions shall be  
7 applicable:

8 The total amount for the four-year credit period of the housing  
9 credit dollars allocated in a calendar year to any building shall  
10 reduce the aggregate housing credit dollar amount of the  
11 California Tax Credit Allocation Committee for the calendar year  
12 in which the allocation is made.

13 (2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I),  
14 (7), and (8) of Section 42(h) of the Internal Revenue Code shall not  
15 be applicable.

16 (g) The aggregate housing credit dollar amount that may be  
17 allocated annually by the California Tax Credit Allocation  
18 Committee pursuant to this section, Section 17058, and Section  
19 23610.5 shall be an amount equal to the sum of all the following:

20 (1) Seventy million dollars (\$70,000,000) for the 2001  
21 calendar year, and, for the 2002 calendar year and each calendar  
22 year thereafter, seventy million dollars (\$70,000,000) ~~multiplied~~  
23 ~~by a factor of one plus~~ *increased* by the percentage, if any, by  
24 which the Consumer Price Index for the preceding calendar year  
25 exceeds the Consumer Price Index for the 2001 calendar year. For  
26 the purposes of this paragraph, the term “Consumer Price Index”  
27 means the last Consumer Price Index for all-urban consumers  
28 published by the federal Department of Labor.

29 (2) The unused housing credit ceiling, if any, for the preceding  
30 calendar years.

31 (3) The amount of housing credit ceiling returned in the  
32 calendar year. For purposes of this paragraph, the amount of  
33 housing credit dollar amount returned in the calendar year equals  
34 the housing credit dollar amount previously allocated to any  
35 project that does not become a qualified low-income housing  
36 project within the period required by this section or to any project  
37 with respect to which an allocation is canceled by mutual consent  
38 of the California Tax Credit Allocation Committee and the  
39 allocation recipient.



1 (h) The term “compliance period” as defined in Section  
2 42(i)(1) of the Internal Revenue Code is modified to mean, with  
3 respect to any building, the period of 30-consecutive ~~income~~  
4 *taxable* years beginning with the first ~~income~~ *taxable* year of the  
5 credit period with respect thereto.

6 (i) (1) Section 42(j) of the Internal Revenue Code shall not be  
7 applicable and the provisions in paragraph (2) shall be substituted  
8 in its place.

9 (2) The requirements of this section shall be set forth in a  
10 regulatory agreement between the California Tax Credit  
11 Allocation Committee and the housing sponsor, which agreement  
12 shall be subordinated, when required, to any lien or encumbrance  
13 of any banks or other institutional lenders to the project. The  
14 regulatory agreement entered into pursuant to subdivision (f) of  
15 Section 50199.14 of the Health and Safety Code, shall apply,  
16 providing the agreement includes all of the following provisions:

17 (A) A term not less than the compliance period.

18 (B) A requirement that the agreement be filed in the official  
19 records of the county in which the qualified low-income housing  
20 project is located.

21 (C) A provision stating which state and local agencies can  
22 enforce the regulatory agreement in the event the housing sponsor  
23 fails to satisfy any of the requirements of this section.

24 (D) A provision that the regulatory agreement shall be deemed  
25 a contract enforceable by tenants as third-party beneficiaries  
26 thereto and which allows individuals, whether prospective,  
27 present, or former occupants of the building, who meet the income  
28 limitation applicable to the building, the right to enforce the  
29 regulatory agreement in any state court.

30 (E) A provision incorporating the requirements of Section 42  
31 of the Internal Revenue Code as modified by this section.

32 (F) A requirement that the housing sponsor notify the  
33 California Tax Credit Allocation Committee or its designee and  
34 the local agency that can enforce the regulatory agreement if there  
35 is a determination by the Internal Revenue Service that the project  
36 is not in compliance with Section 42(g) of the Internal Revenue  
37 Code.

38 (G) A requirement that the housing sponsor, as security for the  
39 performance of the housing sponsor’s obligations under the  
40 regulatory agreement, assign the housing sponsor’s interest in



1 rents that it receives from the project, provided that until there is  
2 a default under the regulatory agreement, the housing sponsor is  
3 entitled to collect and retain the rents.

4 (H) The remedies available in the event of a default under the  
5 regulatory agreement that is not cured within a reasonable cure  
6 period, include, but are not limited to, allowing any of the parties  
7 designated to enforce the regulatory agreement to collect all rents  
8 with respect to the project; taking possession of the project and  
9 operating the project in accordance with the regulatory agreement  
10 until the enforcer determines the housing sponsor is in a position  
11 to operate the project in accordance with the regulatory agreement;  
12 applying to any court for specific performance; securing the  
13 appointment of a receiver to operate the project; or any other relief  
14 as may be appropriate.

15 (j) (1) The committee shall allocate the housing credit on a  
16 regular basis consisting of two or more periods in each calendar  
17 year during which applications may be filed and considered. The  
18 committee shall establish application filing deadlines, the  
19 maximum percentage of federal and state low-income housing tax  
20 credit ceiling which may be allocated by the committee in that  
21 period, and the approximate date on which allocations shall be  
22 made. If the enactment of federal or state law, the adoption of rules  
23 or regulations, or other similar events prevent the use of two  
24 allocation periods, the committee may reduce the number of  
25 periods and adjust the filing deadlines, maximum percentage of  
26 credit allocated, and the allocation dates.

27 (2) The committee shall adopt a qualified allocation plan, as  
28 provided in Section 42(m)(1) of the Internal Revenue Code. In  
29 adopting this plan, the committee shall comply with the provisions  
30 of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue  
31 Code.

32 (3) Notwithstanding Section 42(m) of the Internal Revenue  
33 Code, the California Tax Credit Allocation Committee shall  
34 allocate housing credits in accordance with the qualified allocation  
35 plan and regulations, which shall include the following provisions:

36 (A) All housing sponsors, as defined by paragraph (3) of  
37 subdivision (a), shall demonstrate at the time the application is  
38 filed with the committee that the project meets the following  
39 threshold requirements:





1 (i) The housing sponsor shall demonstrate there is a need and  
2 demand for low-income housing in the community or region for  
3 which it is proposed.

4 (ii) The project's proposed financing, including tax credit  
5 proceeds, shall be sufficient to complete the project and that the  
6 proposed operating income shall be adequate to operate the project  
7 for the extended use period.

8 (iii) The project shall have enforceable financing  
9 commitments, either construction or permanent financing, for at  
10 least 50 percent of the total estimated financing of the project.

11 (iv) The housing sponsor shall have and maintain control of the  
12 site for the project.

13 (v) The housing sponsor shall demonstrate that the project  
14 complies with all applicable local land use and zoning ordinances.

15 (vi) The housing sponsor shall demonstrate that the project  
16 development team has the experience and the financial capacity to  
17 ensure project completion and operation for the extended use  
18 period.

19 (vii) The housing sponsor shall demonstrate the amount of tax  
20 credit that is necessary for the financial feasibility of the project  
21 and its viability as a qualified low-income housing project  
22 throughout the extended use period, taking into account operating  
23 expenses, a supportable debt service, reserves, funds set aside for  
24 rental subsidies, and required equity, and a development fee that  
25 does not exceed a specified percentage of the eligible basis of the  
26 project prior to inclusion of the development fee in the eligible  
27 basis, as determined by the committee.

28 (B) The committee shall give a preference to those projects  
29 satisfying all of the threshold requirements of subparagraph (A) if  
30 both of the following apply:

31 (i) The project serves the lowest income tenants at rents  
32 affordable to those tenants.

33 (ii) The project is obligated to serve qualified tenants for the  
34 longest period.

35 (C) In addition to the provisions of subparagraphs (A) and (B),  
36 the committee shall use the following criteria in allocating housing  
37 credits:

38 (i) Projects serving large families in which a substantial  
39 number, as defined by the committee, of all residential units is  
40 comprised of low-income units with three and more bedrooms.



1 (ii) Projects providing single room occupancy units serving  
2 very low income tenants.

3 (iii) Existing projects that are “at risk of conversion,” as  
4 defined by paragraph (4) of subdivision (c).

5 (iv) Projects for which a public agency provides direct or  
6 indirect long-term financial support for at least 15 percent of the  
7 total project development costs or projects for which the owner’s  
8 equity constitutes at least 30 percent of the total project  
9 development costs.

10 (v) Projects that provide tenant amenities not generally  
11 available to residents of low-income housing projects.

12 (4) For purposes of allocating credits pursuant to this section,  
13 the committee shall not give preference to any project by virtue of  
14 the date of submission of its application except to break a tie when  
15 two or more of the projects have an equal rating.

16 (k) Section 42(l) of the Internal Revenue Code shall be  
17 modified as follows:

18 The term “secretary” shall be replaced by the term “California  
19 Franchise Tax Board.”

20 (l) In the case where the state credit allowed under this section  
21 exceeds the “tax,” the excess may be carried over to reduce the  
22 “tax” in the following year, and succeeding years if necessary,  
23 until the credit has been exhausted.

24 (m) The provisions of Section 11407(a) of Public Law  
25 101-508, relating to the effective date of the extension of the  
26 low-income housing credit, shall apply to calendar years after  
27 1993.

28 (n) The provisions of Section 11407(c) of Public Law 101-508,  
29 relating to election to accelerate credit, shall not apply.

30 (o) This section shall remain in effect for as long as Section 42  
31 of the Internal Revenue Code, relating to low-income housing  
32 credits, remains in effect.

33 SEC. 2. Section 17058 of the Revenue and Taxation Code is  
34 amended to read:

35 17058. (a) (1) There shall be allowed as a credit against the  
36 amount of net tax (as defined in Section 17039) a state low-income  
37 housing credit in an amount equal to the amount determined in  
38 subdivision (c), computed in accordance with the provisions of  
39 Section 42 of the Internal Revenue Code, except as otherwise  
40 provided in this section.



1 (2) “Taxpayer” for purposes of this section means the sole  
2 owner in the case of an individual, the partners in the case of a  
3 partnership, and the shareholders in the case of an S corporation.

4 (3) “Housing sponsor” for purposes of this section means the  
5 sole owner in the case of an individual, the partnership in the case  
6 of a partnership, and the S corporation in the case of an S  
7 corporation.

8 (b) (1) The amount of the credit allocated to any housing  
9 sponsor shall be authorized by the California Tax Credit  
10 Allocation Committee, or any successor thereof, based on a  
11 project’s need for the credit for economic feasibility in accordance  
12 with the requirements of this section.

13 (A) The low-income housing project shall be located in  
14 California and shall meet either of the following requirements:

15 (i) The project’s housing sponsor shall have been allocated by  
16 the California Tax Credit Allocation Committee a credit for  
17 federal income tax purposes under Section 42 of the Internal  
18 Revenue Code.

19 (ii) It shall qualify for a credit under Section 42(h)(4)(B) of the  
20 Internal Revenue Code.

21 (B) The California Tax Credit Allocation Committee shall not  
22 require fees for the credit under this section in addition to those  
23 fees required for applications for the tax credit pursuant to Section  
24 42 of the Internal Revenue Code. The committee may require a fee  
25 if the application for the credit under this section is submitted in  
26 a calendar year after the year the application is submitted for the  
27 federal tax credit.

28 (2) (A) The California Tax Credit Allocation Committee shall  
29 certify to the housing sponsor the amount of tax credit under this  
30 section allocated to the housing sponsor for each credit period.

31 (B) In the case of a partnership or an S corporation, the housing  
32 sponsor shall provide a copy of the California Tax Credit  
33 Allocation Committee certification to the taxpayer.

34 (C) The taxpayer shall, upon request, provide a copy of the  
35 certification to the Franchise Tax Board.

36 (D) All elections made by the taxpayer pursuant to Section 42  
37 of the Internal Revenue Code shall apply to this section.

38 (E) For buildings located in designated difficult development  
39 areas or qualified census tracts as defined in Section 42(d)(5)(C)  
40 of the Internal Revenue Code, credits may be allocated under this



1 section in the amounts prescribed in subdivision (c), provided that  
2 the amount of credit allocated under Section 42 of the Internal  
3 Revenue Code is computed on 100 percent of the qualified basis  
4 of the building.

5 (c) Section 42(b) of the Internal Revenue Code shall be  
6 modified as follows:

7 (1) In the case of any qualified low-income building placed in  
8 service by the housing sponsor during 1987, the term “applicable  
9 percentage” means 9 percent for each of the first three years and  
10 3 percent for the fourth year for new buildings (whether or not the  
11 building is federally subsidized) and for existing buildings.

12 (2) In the case of any qualified low-income building that  
13 receives an allocation after 1989 and is a new building not  
14 federally subsidized, the term “applicable percentage” means the  
15 following:

16 (A) For each of the first three years, the percentage prescribed  
17 by the Secretary of the Treasury for new buildings that are not  
18 federally subsidized for the taxable year, determined in  
19 accordance with the requirements of Section 42(b)(2) of the  
20 Internal Revenue Code, in lieu of the percentage prescribed in  
21 Section 42(b)(1)(A) of the Internal Revenue Code.

22 (B) For the fourth year, the difference between 30 percent and  
23 the sum of the applicable percentages for the first three years.

24 (3) In the case of any qualified low-income building that  
25 receives an allocation after 1989 and that is a new building that is  
26 federally subsidized or that is an existing building that is “at risk  
27 of conversion,” the term “applicable percentage” means the  
28 following:

29 (A) For each of the first three years, the percentage prescribed  
30 by the Secretary of the Treasury for new buildings that are  
31 federally subsidized for the taxable year.

32 (B) For the fourth year, the difference between 13 percent and  
33 the sum of the applicable percentages for the first three years.

34 (4) For purposes of this section, the term “at risk of  
35 conversion,” with respect to an existing building means a building  
36 that satisfies all of the following criteria:

37 (A) The building is presently owned by a housing sponsor other  
38 than a qualified nonprofit organization.

39 (B) The building is a federally assisted building for which the  
40 low-income use restrictions will terminate or the building is



1 eligible for incentives under Subtitle 13 of the Emergency Low  
2 Income Housing Preservation Act of 1987 or under Section 502(c)  
3 of the Housing Act of 1949, anytime in the two calendar years after  
4 the year of application to the California Tax Credit Allocation  
5 Committee, and the purchaser has received preliminary approval  
6 from the applicable federal agency for a maximum level of  
7 incentives through a plan of action.

8 (C) The person acquiring the building enters into a regulatory  
9 agreement that requires the building to be operated in accordance  
10 with the requirements of this section for a period equal to the  
11 greater of 55 years or the life of the building.

12 (D) The building satisfies the requirements of Section 42(e) of  
13 the Internal Revenue Code regarding rehabilitation expenditures,  
14 except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not  
15 apply.

16 (d) The term “qualified low-income housing project” as  
17 defined in Section 42(c)(2) of the Internal Revenue Code is  
18 modified by adding the following requirements:

19 (1) The taxpayer shall be entitled to receive a cash distribution  
20 from the operations of the project, after funding required reserves,  
21 that, at the election of the taxpayer, is equal to:

22 (A) An amount not to exceed 8 percent of the lesser of:

23 (i) The owner equity that shall include the amount of the capital  
24 contributions actually paid to the housing sponsor and shall not  
25 include any amounts until they are paid on an investor note.

26 (ii) Twenty percent of the adjusted basis of the building as of  
27 the close of the first taxable year of the credit period.

28 (B) The amount of the cash-flow from those units in the  
29 building that are not low-income units. For purposes of computing  
30 cash-flow under this subparagraph, operating costs shall be  
31 allocated to the low-income units using the “floor space fraction,”  
32 as defined in Section 42 of the Internal Revenue Code.

33 (C) Any amount allowed to be distributed under subparagraph  
34 (A) that is not available for distribution during the first five years  
35 of the compliance period may be accumulated and distributed any  
36 time during the first 15 years of the compliance period but not  
37 thereafter.

38 (2) The limitation on return shall apply in the aggregate to the  
39 partners if the housing sponsor is a partnership and in the aggregate  
40 to the shareholders if the housing sponsor is an S corporation.



1 (3) The housing sponsor shall apply any cash available for  
2 distribution in excess of the amount eligible to be distributed under  
3 paragraph (1) to reduce the rent on rent-restricted units or to  
4 increase the number of rent-restricted units subject to the tests of  
5 Section 42(g)(1) of the Internal Revenue Code.

6 (e) The provisions of Section 42(f) of the Internal Revenue  
7 Code shall be modified as follows:

8 (1) The term “credit period” as defined in Section 42(f)(1) of  
9 the Internal Revenue Code is modified by substituting “four  
10 taxable years” for “10 taxable years.”

11 (2) The special rule for the first taxable year of the credit period  
12 under Section 42(f)(2) of the Internal Revenue Code shall not  
13 apply to the tax credit under this section.

14 (3) Section 42(f)(3) of the Internal Revenue Code is modified  
15 to read:

16 If, as of the close of any taxable year in the compliance period,  
17 after the first year of the credit period, the qualified basis of any  
18 building exceeds the qualified basis of that building as of the close  
19 of the first year of the credit period, the housing sponsor, to the  
20 extent of its tax credit allocation, shall be eligible for a credit on  
21 the excess in an amount equal to the applicable percentage  
22 determined pursuant to subdivision (c) for the four-year period  
23 beginning with the taxable year in which the increase in qualified  
24 basis occurs.

25 (f) The provisions of Section 42(h) of the Internal Revenue  
26 Code shall be modified as follows:

27 (1) Section 42(h)(2) of the Internal Revenue Code shall not be  
28 applicable and instead the following provisions shall be  
29 applicable:

30 The total amount for the four-year period of the housing credit  
31 dollars allocated in a calendar year to any building shall reduce the  
32 aggregate housing credit dollar amount of the California Tax  
33 Credit Allocation Committee for the calendar year in which the  
34 allocation is made.

35 (2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I),  
36 (7), and (8) of Section 42(h) of the Internal Revenue Code shall not  
37 be applicable to this section.

38 (g) The aggregate housing credit dollar amount which may be  
39 allocated annually by the California Tax Credit Allocation



1 Committee pursuant to this section, Section 12206, and Section  
2 23610.5 shall be an amount equal to the sum of all the following:

3 (1) Seventy million dollars (\$70,000,000) for the 2001  
4 calendar year, and, for the 2002 calendar year and each calendar  
5 year thereafter, seventy million dollars (\$70,000,000) ~~multiplied~~  
6 ~~by a factor of one plus~~ *increased by* the percentage, if any, by  
7 which the Consumer Price Index for the preceding calendar year  
8 exceeds the Consumer Price Index for the 2001 calendar year. For  
9 the purposes of this paragraph, the term “Consumer Price Index”  
10 means the last Consumer Price Index for all-urban consumers  
11 published by the federal Department of Labor.

12 (2) The unused housing credit ceiling, if any, for the preceding  
13 calendar years.

14 (3) The amount of housing credit ceiling returned in the  
15 calendar year. For purposes of this paragraph, the amount of  
16 housing credit dollar amount returned in the calendar year equals  
17 the housing credit dollar amount previously allocated to any  
18 project that does not become a qualified low-income housing  
19 project within the period required by this section or to any project  
20 with respect to which an allocation is canceled by mutual consent  
21 of the California Tax Credit Allocation Committee and the  
22 allocation recipient.

23 (h) The term “compliance period” as defined in Section  
24 42(i)(1) of the Internal Revenue Code is modified to mean, with  
25 respect to any building, the period of 30 consecutive taxable years  
26 beginning with the first taxable year of the credit period with  
27 respect thereto.

28 (i) Section 42(j) of the Internal Revenue Code shall not be  
29 applicable and the following requirements of this section shall be  
30 set forth in a regulatory agreement between the California Tax  
31 Credit Allocation Committee and the housing sponsor, which  
32 agreement shall be subordinated, when required, to any lien or  
33 encumbrance of any banks or other institutional lenders to the  
34 project. The regulatory agreement entered into pursuant to  
35 subdivision (f) of Section 50199.14 of the Health and Safety Code  
36 shall apply, providing the agreement includes all of the following  
37 provisions:

38 (1) A term not less than the compliance period.



1 (2) A requirement that the agreement be filed in the official  
2 records of the county in which the qualified low-income housing  
3 project is located.

4 (3) A provision stating which state and local agencies can  
5 enforce the regulatory agreement in the event the housing sponsor  
6 fails to satisfy any of the requirements of this section.

7 (4) A provision that the regulatory agreement shall be deemed  
8 a contract enforceable by tenants as third-party beneficiaries  
9 thereto and which allows individuals, whether prospective,  
10 present, or former occupants of the building, who meet the income  
11 limitation applicable to the building, the right to enforce the  
12 regulatory agreement in any state court.

13 (5) A provision incorporating the requirements of Section 42  
14 of the Internal Revenue Code as modified by this section.

15 (6) A requirement that the housing sponsor notify the  
16 California Tax Credit Allocation Committee or its designee if there  
17 is a determination by the Internal Revenue Service that the project  
18 is not in compliance with Section 42(g) of the Internal Revenue  
19 Code.

20 (7) A requirement that the housing sponsor, as security for the  
21 performance of the housing sponsor's obligations under the  
22 regulatory agreement, assign the housing sponsor's interest in  
23 rents that it receives from the project, provided that until there is  
24 a default under the regulatory agreement, the housing sponsor is  
25 entitled to collect and retain the rents.

26 (8) The remedies available in the event of a default under the  
27 regulatory agreement that is not cured within a reasonable cure  
28 period, include, but are not limited to, allowing any of the parties  
29 designated to enforce the regulatory agreement to collect all rents  
30 with respect to the project; taking possession of the project and  
31 operating the project in accordance with the regulatory agreement  
32 until the enforcer determines the housing sponsor is in a position  
33 to operate the project in accordance with the regulatory agreement;  
34 applying to any court for specific performance; securing the  
35 appointment of a receiver to operate the project; or any other relief  
36 as may be appropriate.

37 (j) (1) The committee shall allocate the housing credit on a  
38 regular basis consisting of two or more periods in each calendar  
39 year during which applications may be filed and considered. The  
40 committee shall establish application filing deadlines, the





1 maximum percentage of federal and state low-income housing tax  
2 credit ceiling that may be allocated by the committee in that  
3 period, and the approximate date on which allocations shall be  
4 made. If the enactment of federal or state law, the adoption of rules  
5 or regulations or other similar events prevent the use of two  
6 allocation periods, the committee may reduce the number of  
7 periods and adjust the filing deadlines, maximum percentage of  
8 credit allocated, and the allocation dates.

9 (2) The committee shall adopt a qualified allocation plan, as  
10 provided in Section 42(m)(1) of the Internal Revenue Code. In  
11 adopting this plan, the committee shall comply with the provisions  
12 of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue  
13 Code.

14 (3) Notwithstanding Section 42(m) of the Internal Revenue  
15 Code, the California Tax Credit Allocation Committee shall  
16 allocate housing credits in accordance with the qualified allocation  
17 plan and regulations, which shall include the following provisions:

18 (A) All housing sponsors, as defined by paragraph (3) of  
19 subdivision (a), shall demonstrate at the time the application is  
20 filed with the committee that the project meets the following  
21 threshold requirements:

22 (i) The housing sponsor shall demonstrate there is a need and  
23 demand for low-income housing in the community or region for  
24 which it is proposed.

25 (ii) The project's proposed financing, including tax credit  
26 proceeds, shall be sufficient to complete the project and that the  
27 proposed operating income shall be adequate to operate the project  
28 for the extended use period.

29 (iii) The project shall have enforceable financing  
30 commitments, either construction or permanent financing, for at  
31 least 50 percent of the total estimated financing of the project.

32 (iv) The housing sponsor shall have and maintain control of the  
33 site for the project.

34 (v) The housing sponsor shall demonstrate that the project  
35 complies with all applicable local land use and zoning ordinances.

36 (vi) The housing sponsor shall demonstrate that the project  
37 development team has the experience and the financial capacity to  
38 ensure project completion and operation for the extended use  
39 period.



1 (vii) The housing sponsor shall demonstrate the amount of tax  
2 credit that is necessary for the financial feasibility of the project  
3 and its viability as a qualified low-income housing project  
4 throughout the extended use period, taking into account operating  
5 expenses, a supportable debt service, reserves, funds set aside for  
6 rental subsidies, and required equity, and a development fee that  
7 does not exceed a specified percentage of the eligible basis of the  
8 project prior to inclusion of the development fee in the eligible  
9 basis, as determined by the committee.

10 (B) The committee shall give a preference to those projects  
11 satisfying all of the threshold requirements of subparagraph (A) if  
12 both of the following apply:

13 (i) The project serves the lowest income tenants at rents  
14 affordable to those tenants.

15 (ii) The project is obligated to serve qualified tenants for the  
16 longest period.

17 (C) In addition to the provisions of subparagraphs (A) and (B),  
18 the committee shall use the following criteria in allocating housing  
19 credits:

20 (i) Projects serving large families in which a substantial  
21 number, as defined by the committee of all residential units is  
22 comprised of low-income units with three and more bedrooms.

23 (ii) Projects providing single room occupancy units serving  
24 very low income tenants.

25 (iii) Existing projects that are “at risk of conversion,” as  
26 defined by paragraph (4) of subdivision (c).

27 (iv) Projects for which a public agency provides direct or  
28 indirect long-term financial support for at least 15 percent of the  
29 total project development costs or projects for which the owner’s  
30 equity constitutes at least 30 percent of the total project  
31 development costs.

32 (v) Projects that provide tenant amenities not generally  
33 available to residents of low-income housing projects.

34 (4) For purposes of allocating credits pursuant to this section,  
35 the committee shall not give preference to any project by virtue of  
36 the date of submission of its application.

37 (k) Section 42(l) of the Internal Revenue Code shall be  
38 modified as follows:

39 The term “secretary” shall be replaced by the term “California  
40 Franchise Tax Board.”



1 (l) In the case where the credit allowed under this section  
2 exceeds the net tax, the excess credit may be carried over to reduce  
3 the net tax in the following year, and succeeding taxable years, if  
4 necessary, until the credit has been exhausted.

5 (m) A project that received an allocation of a 1989 federal  
6 housing credit dollar amount shall be eligible to receive an  
7 allocation of a 1990 state housing credit dollar amount, subject to  
8 all of the following conditions:

9 (1) The project was not placed in service prior to 1990.

10 (2) To the extent the amendments made to this section by the  
11 Statutes of 1990 conflict with any provisions existing in this  
12 section prior to those amendments, the prior provisions of law  
13 shall prevail.

14 (3) Notwithstanding paragraph (2), a project applying for an  
15 allocation under this subdivision shall be subject to the  
16 requirements of paragraph (3) of subdivision (j).

17 (n) The credit period with respect to an allocation of credit in  
18 1989 by the California Tax Credit Allocation Committee of which  
19 any amount is attributable to unallocated credit from 1987 or 1988  
20 shall not begin until after December 31, 1989.

21 (o) The provisions of Section 11407(a) of Public Law 101-508,  
22 relating to the effective date of the extension of the low-income  
23 housing credit, shall apply to calendar years after 1989.

24 (p) The provisions of Section 11407(c) of Public Law 101-508,  
25 relating to election to accelerate credit, shall not apply.

26 (q) Any unused credit may continue to be carried forward, as  
27 provided in subdivision (l), until the credit has been exhausted.

28 This section shall remain in effect on and after December 1,  
29 1990, for as long as Section 42 of the Internal Revenue Code,  
30 relating to low-income housing credits, remains in effect.

31 (r) The amendments to this section by the act adding this  
32 subdivision shall apply only to taxable years beginning on or after  
33 January 1, 1994.

34 SEC. 3. Section 23610.5 of the Revenue and Taxation Code  
35 is amended to read:

36 23610.5. (a) (1) There shall be allowed as a credit against the  
37 "tax" (as defined by Section 23036) a state low-income housing  
38 tax credit in an amount equal to the amount determined in  
39 subdivision (c), computed in accordance with Section 42 of the



1 Internal Revenue Code of 1986, except as otherwise provided in  
2 this section.

3 (2) “Taxpayer,” for purposes of this section, means the sole  
4 owner in the case of a C corporation, the partners in the case of a  
5 partnership, and the shareholders in the case of an S corporation.

6 (3) “Housing sponsor,” for purposes of this section, means the  
7 sole owner in the case of a C corporation, the partnership in the  
8 case of a partnership, and the S corporation in the case of an S  
9 corporation.

10 (b) (1) The amount of the credit allocated to any housing  
11 sponsor shall be authorized by the California Tax Credit  
12 Allocation Committee, or any successor thereof, based on a  
13 project’s need for the credit for economic feasibility in accordance  
14 with the requirements of this section.

15 (A) The low-income housing project shall be located in  
16 California and shall meet either of the following requirements:

17 (i) The project’s housing sponsor has been allocated by the  
18 California Tax Credit Allocation Committee a credit for federal  
19 income tax purposes under Section 42 of the Internal Revenue  
20 Code.

21 (ii) It qualifies for a credit under Section 42(h)(4)(B) of the  
22 Internal Revenue Code.

23 (B) The California Tax Credit Allocation Committee shall not  
24 require fees for the credit under this section in addition to those  
25 fees required for applications for the tax credit pursuant to Section  
26 42 of the Internal Revenue Code. The committee may require a fee  
27 if the application for the credit under this section is submitted in  
28 a calendar year after the year the application is submitted for the  
29 federal tax credit.

30 (2) (A) The California Tax Credit Allocation Committee shall  
31 certify to the housing sponsor the amount of tax credit under this  
32 section allocated to the housing sponsor for each credit period.

33 (B) In the case of a partnership or an S corporation, the housing  
34 sponsor shall provide a copy of the California Tax Credit  
35 Allocation Committee certification to the taxpayer.

36 (C) The taxpayer shall, upon request, provide a copy of the  
37 certification to the Franchise Tax Board.

38 (D) All elections made by the taxpayer pursuant to Section 42  
39 of the Internal Revenue Code shall apply to this section.



1 (E) For buildings located in designated difficult development  
2 areas or qualified census tracts as defined in Section 42(d)(5)(C)  
3 of the Internal Revenue Code, credits may be allocated under this  
4 section in the amounts prescribed in subdivision (c), provided that  
5 the amount of credit allocated under Section 42 of the Internal  
6 Revenue Code is computed on 100 percent of the qualified basis  
7 of the building.

8 (c) Section 42(b) of the Internal Revenue Code shall be  
9 modified as follows:

10 (1) In the case of any qualified low-income building placed in  
11 service by the housing sponsor during 1987, the term “applicable  
12 percentage” means 9 percent for each of the first three years and  
13 3 percent for the fourth year for new buildings (whether or not the  
14 building is federally subsidized) and for existing buildings.

15 (2) In the case of any qualified low-income building that  
16 receives an allocation after 1989 and is a new building not  
17 federally subsidized, the term “applicable percentage” means the  
18 following:

19 (A) For each of the first three years, the percentage prescribed  
20 by the Secretary of the Treasury for new buildings that are not  
21 federally subsidized for the taxable year, determined in  
22 accordance with the requirements of Section 42(b)(2) of the  
23 Internal Revenue Code, in lieu of the percentage prescribed in  
24 Section 42(b)(1)(A).

25 (B) For the fourth year, the difference between 30 percent and  
26 the sum of the applicable percentages for the first three years.

27 (3) In the case of any qualified low-income building that  
28 receives an allocation after 1989 and that is a new building that is  
29 federally subsidized or that is an existing building that is “at risk  
30 of conversion,” the term “applicable percentage” means the  
31 following:

32 (A) For each of the first three years, the percentage prescribed  
33 by the Secretary of the Treasury for new buildings that are  
34 federally subsidized for the taxable year.

35 (B) For the fourth year, the difference between 13 percent and  
36 the sum of the applicable percentages for the first three years.

37 (4) For purposes of this section, the term “at risk of  
38 conversion,” with respect to an existing building means a building  
39 that satisfies all of the following criteria:



1 (A) The building is presently owned by a housing sponsor other  
2 than a qualified nonprofit organization.

3 (B) The building is a federally assisted building for which the  
4 low-income use restrictions will terminate or the building is  
5 eligible for prepayment under Subtitle 13 of the Emergency Low  
6 Income Housing Assistance Act of 1987 or under Section 502(c)  
7 of the Housing Act of 1949, anytime in the two calendar years after  
8 the year of application to the California Tax Credit Allocation  
9 Committee, and the purchaser has received preliminary approval  
10 from the applicable federal agency for a maximum level of  
11 incentives through a plan of action.

12 (C) The person acquiring the building enters into a regulatory  
13 agreement that requires the building to be operated in accordance  
14 with the requirements of this section for a period equal to the  
15 greater of 55 years or the life of the building.

16 (D) The building satisfies the requirements of Section 42(e) of  
17 the Internal Revenue Code regarding rehabilitation expenditures,  
18 except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not  
19 apply.

20 (d) The term “qualified low-income housing project” as  
21 defined in Section 42(c)(2) of the Internal Revenue Code is  
22 modified by adding the following requirements:

23 (1) The taxpayer shall be entitled to receive a cash distribution  
24 from the operations of the project, after funding required reserves,  
25 which, at the election of the taxpayer, shall be equal to:

26 (A) An amount not to exceed 8 percent of the lesser of:

27 (i) The owner equity, which shall include the amount of the  
28 capital contributions actually paid to the housing sponsor and shall  
29 not include any amounts until they are paid on an investor note.

30 (ii) Twenty percent of the adjusted basis of the building as of  
31 the close of the first ~~income~~ taxable year of the credit period.

32 (B) The amount of the cash-flow from those units in the  
33 building that are not low-income units. For purposes of computing  
34 cash-flow under this subparagraph, operating costs shall be  
35 allocated to the low-income units using the “floor space fraction,”  
36 as defined in Section 42 of the Internal Revenue Code.

37 (C) Any amount allowed to be distributed under subparagraph  
38 (A) that is not available for distribution during the first five years  
39 of the compliance period may accumulate and be distributed at any



1 time during the first 15 years of the compliance period but not  
2 thereafter.

3 (2) The limitation on return shall apply in the aggregate to the  
4 partners if the housing sponsor is a partnership and in the aggregate  
5 to the shareholders if the housing sponsor is an S corporation.

6 (3) The housing sponsor shall apply any cash available for  
7 distribution in excess of the amount eligible to be distributed under  
8 paragraph (1) to reduce the rent on rent-restricted units or to  
9 increase the number of rent-restricted units subject to the tests of  
10 Section 42(g)(1) of the Internal Revenue Code.

11 (e) The provisions of Section 42(f) of the Internal Revenue  
12 Code shall be modified as follows:

13 (1) The term “credit period” as defined in Section 42(f)(1) of  
14 the Internal Revenue Code is modified by substituting “four  
15 ~~income taxable~~ years” for “10 taxable years.”

16 (2) The special rule for the first taxable year of the credit period  
17 under Section 42(f)(2) of the Internal Revenue Code shall not  
18 apply to the tax credit under this section.

19 (3) Section 42(f)(3) of the Internal Revenue Code is modified  
20 to read:

21 If, as of the close of any taxable year in the compliance period,  
22 after the first year of the credit period, the qualified basis of any  
23 building exceeds the qualified basis of that building as of the close  
24 of the first year of the credit period, the housing sponsor, to the  
25 extent of its tax credit allocation, shall be eligible for a credit on  
26 the excess in an amount equal to the applicable percentage  
27 determined pursuant to subdivision (c) for the four-year period  
28 beginning with the later of the taxable years in which the increase  
29 in qualified basis occurs.

30 (f) The provisions of Section 42(h) of the Internal Revenue  
31 Code shall be modified as follows:

32 (1) Section 42(h)(2) of the Internal Revenue Code shall not be  
33 applicable and instead the following provisions shall be  
34 applicable:

35 The total amount for the four-year credit period of the housing  
36 credit dollars allocated in a calendar year to any building shall  
37 reduce the aggregate housing credit dollar amount of the  
38 California Tax Credit Allocation Committee for the calendar year  
39 in which the allocation is made.



1 (2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I),  
2 (7), and (8) of Section 42(h) of the Internal Revenue Code shall not  
3 be applicable.

4 (g) The aggregate housing credit dollar amount that may be  
5 allocated annually by the California Tax Credit Allocation  
6 Committee pursuant to this section, Section 12206, and Section  
7 17058 shall be an amount equal to the sum of all the following:

8 (1) Seventy million dollars (\$70,000,000) for the 2001  
9 calendar year, and, for the 2002 calendar year and each calendar  
10 year thereafter, seventy million dollars (\$70,000,000) ~~multiplied~~  
11 ~~by a factor of one plus~~ *increased by* the percentage, if any, by which  
12 the Consumer Price Index for the preceding calendar year exceeds  
13 the Consumer Price Index for the 2001 calendar year. For the  
14 purposes of this paragraph, the term “Consumer Price Index”  
15 means the last Consumer Price Index for all-urban consumers  
16 published by the federal Department of Labor.

17 (2) The unused housing credit ceiling, if any, for the preceding  
18 calendar years.

19 (3) The amount of housing credit ceiling returned in the  
20 calendar year. For purposes of this paragraph, the amount of  
21 housing credit dollar amount returned in the calendar year equals  
22 the housing credit dollar amount previously allocated to any  
23 project that does not become a qualified low-income housing  
24 project within the period required by this section or to any project  
25 with respect to which an allocation is canceled by mutual consent  
26 of the California Tax Credit Allocation Committee and the  
27 allocation recipient.

28 (h) The term “compliance period” as defined in Section  
29 42(i)(1) of the Internal Revenue Code is modified to mean, with  
30 respect to any building, the period of 30 consecutive ~~income~~  
31 *taxable* years beginning with the first ~~income taxable~~ year of the  
32 credit period with respect thereto.

33 (i) Section 42(j) of the Internal Revenue Code shall not be  
34 applicable and the following shall be substituted in its place:

35 The requirements of this section shall be set forth in a regulatory  
36 agreement between the California Tax Credit Allocation  
37 Committee and the housing sponsor, and this agreement shall be  
38 subordinated, when required, to any lien or encumbrance of any  
39 banks or other institutional lenders to the project. The regulatory  
40 agreement entered into pursuant to subdivision (f) of Section





1 50199.14 of the Health and Safety Code shall apply, provided that  
2 the agreement includes all of the following provisions:

3 (1) A term not less than the compliance period.

4 (2) A requirement that the agreement be filed in the official  
5 records of the county in which the qualified low-income housing  
6 project is located.

7 (3) A provision stating which state and local agencies can  
8 enforce the regulatory agreement in the event the housing sponsor  
9 fails to satisfy any of the requirements of this section.

10 (4) A provision that the regulatory agreement shall be deemed  
11 a contract enforceable by tenants as third-party beneficiaries  
12 thereto, and that allows individuals, whether prospective, present,  
13 or former occupants of the building, who meet the income  
14 limitation applicable to the building the right to enforce the  
15 regulatory agreement in any state court.

16 (5) A provision incorporating the requirements of Section 42  
17 of the Internal Revenue Code as modified by this section.

18 (6) A requirement that the housing sponsor notify the  
19 California Tax Credit Allocation Committee or its designee if there  
20 is a determination by the Internal Revenue Service that the project  
21 is not in compliance with Section 42(g) of the Internal Revenue  
22 Code.

23 (7) A requirement that the housing sponsor, as security for the  
24 performance of the housing sponsor's obligations under the  
25 regulatory agreement, assign the housing sponsor's interest in  
26 rents that it receives from the project, provided that until there is  
27 a default under the regulatory agreement, the housing sponsor is  
28 entitled to collect and retain the rents.

29 (8) A provision that the remedies available in the event of a  
30 default under the regulatory agreement that is not cured within a  
31 reasonable cure period include, but are not limited to, allowing any  
32 of the parties designated to enforce the regulatory agreement to  
33 collect all rents with respect to the project; taking possession of the  
34 project and operating the project in accordance with the regulatory  
35 agreement until the enforcer determines the housing sponsor is in  
36 a position to operate the project in accordance with the regulatory  
37 agreement; applying to any court for specific performance;  
38 securing the appointment of a receiver to operate the project; or  
39 any other relief as may be appropriate.



1 (j) (1) The committee shall allocate the housing credit on a  
2 regular basis consisting of two or more periods in each calendar  
3 year during which applications may be filed and considered. The  
4 committee shall establish application filing deadlines, the  
5 maximum percentage of federal and state low-income housing tax  
6 credit ceiling that may be allocated by the committee in that  
7 period, and the approximate date on which allocations shall be  
8 made. If the enactment of federal or state law, the adoption of rules  
9 or regulations, or other similar events prevent the use of two  
10 allocation periods, the committee may reduce the number of  
11 periods and adjust the filing deadlines, maximum percentage of  
12 credit allocated, and allocation dates.

13 (2) The committee shall adopt a qualified allocation plan, as  
14 provided in Section 42(m)(1) of the Internal Revenue Code. In  
15 adopting this plan, the committee shall comply with the provisions  
16 of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue  
17 Code.

18 (3) Notwithstanding Section 42(m) of the Internal Revenue  
19 Code, the California Tax Credit Allocation Committee shall  
20 allocate housing credits in accordance with the qualified allocation  
21 plan and regulations, which shall include the following provisions:

22 (A) All housing sponsors, as defined by paragraph (3) of  
23 subdivision (a), shall demonstrate at the time the application is  
24 filed with the committee that the project meets the following  
25 threshold requirements:

26 (i) The housing sponsor shall demonstrate that there is a need  
27 for low-income housing in the community or region for which it  
28 is proposed.

29 (ii) The project's proposed financing, including tax credit  
30 proceeds, shall be sufficient to complete the project and shall be  
31 adequate to operate the project for the extended use period.

32 (iii) The project shall have enforceable financing  
33 commitments, either construction or permanent financing, for at  
34 least 50 percent of the total estimated financing of the project.

35 (iv) The housing sponsor shall have and maintain control of the  
36 site for the project.

37 (v) The housing sponsor shall demonstrate that the project  
38 complies with all applicable local land use and zoning ordinances.

39 (vi) The housing sponsor shall demonstrate that the project  
40 development team has the experience and the financial capacity to



1 ensure project completion and operation for the extended use  
2 period.

3 (vii) The housing sponsor shall demonstrate the amount of tax  
4 credit that is necessary for the financial feasibility of the project  
5 and its viability as a qualified low-income housing project  
6 throughout the extended use period, taking into account operating  
7 expenses, a supportable debt service, reserves, funds set aside for  
8 rental subsidies, and required equity, and a development fee that  
9 does not exceed a specified percentage of the eligible basis of the  
10 project prior to inclusion of the development fee in the eligible  
11 basis, as determined by the committee.

12 (B) The committee shall give a preference to those projects  
13 satisfying all of the threshold requirements of subparagraph (A) if  
14 both of the following apply:

15 (i) The project serves the lowest income tenants at rents  
16 affordable to those tenants.

17 (ii) The project is obligated to serve qualified tenants for the  
18 longest period.

19 (C) In addition to the provisions of subparagraphs (A) and (B),  
20 the committee shall use the following criteria in allocating housing  
21 credits:

22 (i) Projects serving large families in which a substantial  
23 number, as defined by the committee, of all residential units are  
24 low-income units with three and more bedrooms.

25 (ii) Projects providing single-room occupancy units serving  
26 very low income tenants.

27 (iii) Existing projects that are “at risk of conversion,” as  
28 defined by paragraph (4) of subdivision (c).

29 (iv) Projects for which a public agency provides direct or  
30 indirect long-term financial support for at least 15 percent of the  
31 total project development costs or projects for which the owner’s  
32 equity constitutes at least 30 percent of the total project  
33 development costs.

34 (v) Projects that provide tenant amenities not generally  
35 available to residents of low-income housing projects.

36 (4) For purposes of allocating credits pursuant to this section,  
37 the committee shall not give preference to any project by virtue of  
38 the date of submission of its application except to break a tie when  
39 two or more of the projects have an equal rating.



1 (5) Not less than 20 percent of the low-income housing tax  
2 credits available annually under this section, Section 12206, and  
3 Section 17058 shall be set aside for allocation to rural areas as  
4 defined in Section 50199.21 of the Health and Safety Code. Any  
5 amount of credit set aside for rural areas remaining on or after  
6 October 31 of any calendar year shall be available for allocation  
7 to any eligible project. No amount of credit set aside for rural areas  
8 shall be considered available for any eligible project so long as  
9 there are eligible rural applications pending on October 31.

10 (k) Section 42(l) of the Internal Revenue Code shall be  
11 modified as follows:

12 The term “secretary” shall be replaced by the term “California  
13 Franchise Tax Board.”

14 (l) In the case where the state credit allowed under this section  
15 exceeds the “tax,” the excess may be carried over to reduce the  
16 “tax” in the following year, and succeeding years if necessary,  
17 until the credit has been exhausted.

18 (m) A project that received an allocation of a 1989 federal  
19 housing credit dollar amount shall be eligible to receive an  
20 allocation of a 1990 state housing credit dollar amount, subject to  
21 all of the following conditions:

22 (1) The project was not placed in service prior to 1990.

23 (2) To the extent the amendments made to this section by the  
24 Statutes of 1990 conflict with any provisions existing in this  
25 section prior to those amendments, the prior provisions of law  
26 shall prevail.

27 (3) Notwithstanding paragraph (2), a project applying for an  
28 allocation under this subdivision shall be subject to the  
29 requirements of paragraph (3) of subdivision (j).

30 (n) The credit period with respect to an allocation of credit in  
31 1989 by the California Tax Credit Allocation Committee of which  
32 any amount is attributable to unallocated credit from 1987 or 1988  
33 shall not begin until after December 31, 1989.

34 (o) The provisions of Section 11407(a) of Public Law 101-508,  
35 relating to the effective date of the extension of the low-income  
36 housing credit, shall apply to calendar years after 1989.

37 (p) The provisions of Section 11407(c) of Public Law 101-508,  
38 relating to election to accelerate credit, shall not apply.

39 (q) (1) A corporation may elect to assign any portion of any  
40 credit allowed under this section to one or more affiliated



1 corporations for each taxable year in which the credit is allowed.  
2 For purposes of this subdivision, “affiliated corporation” has the  
3 meaning provided in subdivision (b) of Section 25110, as that  
4 section was amended by Chapter 881 of the Statutes of 1993, as of  
5 the last day of the taxable year in which the credit is allowed,  
6 except that “100 percent” is substituted for “more than 50  
7 percent” wherever it appears in the section, as that section was  
8 amended by Chapter 881 of the Statutes of 1993, and “voting  
9 common stock” is substituted for “voting stock” wherever it  
10 appears in the section, as that section was amended by Chapter 881  
11 of the Statutes of 1993.

12 (2) The election provided in paragraph (1):

13 (A) May be based on any method selected by the corporation  
14 that originally receives the credit.

15 (B) Shall be irrevocable for the taxable year the credit is  
16 allowed, once made.

17 (C) May be changed for any subsequent taxable year if the  
18 election to make the assignment is expressly shown on each of the  
19 returns of the affiliated corporations that assign and receive the  
20 credits.

21 (r) Any unused credit may continue to be carried forward, as  
22 provided in subdivision (k), until the credit has been exhausted.

23 This section shall remain in effect on or after December 1, 1990,  
24 for as long as Section 42 of the Internal Revenue Code, relating to  
25 low-income housing credits, remains in effect.

26 (s) The amendments to this section made by the act adding this  
27 subdivision shall apply only to taxable years beginning on or after  
28 January 1, 1994, except that paragraph (1) of subdivision (q), as  
29 amended, shall apply to taxable years beginning on or after  
30 January 1, 1993.

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

