

AMENDED IN SENATE JUNE 19, 2001  
AMENDED IN SENATE MARCH 26, 2001

**SENATE BILL**

**No. 73**

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**Introduced by Senator Dunn**  
**(Principal coauthors: Senators Scott and Torlakson)**  
(Principal coauthors: Assembly Members Diaz, Keeley, Lowenthal,  
and Migden)  
*(Coauthor: Assembly Member Chan)*

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 require the California Tax Credit Allocation Committee to review and evaluate the geographic apportionment methodology of the low-income housing tax credit program, as provided, and to report back to the Legislature no later than June 30, 2002.*

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.



1 (B) The California Tax Credit Allocation Committee shall not  
2 require fees for the credit under this section in addition to those  
3 fees required for applications for the tax credit pursuant to Section  
4 42 of the Internal Revenue Code. The committee may require a fee  
5 if the application for the credit under this section is submitted in  
6 a calendar year after the year the application is submitted for the  
7 federal tax credit.

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

37 (D) The building satisfies the requirements of Section 42(e) of  
38 the Internal Revenue Code regarding rehabilitation expenditures,  
39 except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not  
40 apply.



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

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

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

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

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

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

18 (C) Any amount allowed to be distributed under subparagraph  
19 (A) that is not available for distribution during the first five years  
20 of the compliance period may accumulate and be distributed any  
21 time during the first 15 years of the compliance period but not  
22 thereafter.

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

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

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

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

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

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



1 If, as of the close of any taxable year in the compliance period,  
2 after the first year of the credit period, the qualified basis of any  
3 building exceeds the qualified basis of that building as of the close  
4 of the first year of the credit period, the housing sponsor, to the  
5 extent of its tax credit allocation, shall be eligible for a credit on  
6 the excess in an amount equal to the applicable percentage  
7 determined pursuant to subdivision (c) for the four-year period  
8 beginning with the later of the taxable years in which the increase  
9 in qualified basis occurs.

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

12 (1) Section 42(h)(2) of the Internal Revenue Code shall not be  
13 applicable and instead the following provisions shall be  
14 applicable:

15 The total amount for the four-year credit period of the housing  
16 credit dollars allocated in a calendar year to any building shall  
17 reduce the aggregate housing credit dollar amount of the  
18 California Tax Credit Allocation Committee for the calendar year  
19 in which the allocation is made.

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

23 (g) The aggregate housing credit dollar amount that may be  
24 allocated annually by the California Tax Credit Allocation  
25 Committee pursuant to this section, Section 17058, and Section  
26 23610.5 shall be an amount equal to the sum of all the following:

27 (1) Seventy million dollars (\$70,000,000) for the 2001  
28 calendar year, and, for the 2002 calendar year and each calendar  
29 year thereafter, seventy million dollars (\$70,000,000) increased  
30 by the percentage, if any, by which the Consumer Price Index for  
31 the preceding calendar year exceeds the Consumer Price Index for  
32 the 2001 calendar year. For the purposes of this paragraph, the term  
33 “Consumer Price Index” means the last Consumer Price Index for  
34 all urban consumers published by the federal Department of Labor.

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

37 (3) The amount of housing credit ceiling returned in the  
38 calendar year. For purposes of this paragraph, the amount of  
39 housing credit dollar amount returned in the calendar year equals  
40 the housing credit dollar amount previously allocated to any



1 project that does not become a qualified low-income housing  
2 project within the period required by this section or to any project  
3 with respect to which an allocation is canceled by mutual consent  
4 of the California Tax Credit Allocation Committee and the  
5 allocation recipient.

6 (h) The term “compliance period” as defined in Section  
7 42(i)(1) of the Internal Revenue Code is modified to mean, with  
8 respect to any building, the period of 30-consecutive taxable years  
9 beginning with the first taxable year of the credit period with  
10 respect thereto.

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

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

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

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

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

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

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

37 (F) A requirement that the housing sponsor notify the  
38 California Tax Credit Allocation Committee or its designee and  
39 the local agency that can enforce the regulatory agreement if there  
40 is a determination by the Internal Revenue Service that the project





1 is not in compliance with Section 42(g) of the Internal Revenue  
2 Code.

3 (G) A requirement that the housing sponsor, as security for the  
4 performance of the housing sponsor's obligations under the  
5 regulatory agreement, assign the housing sponsor's interest in  
6 rents that it receives from the project, provided that until there is  
7 a default under the regulatory agreement, the housing sponsor is  
8 entitled to collect and retain the rents.

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

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

32 (2) The committee shall adopt a qualified allocation plan, as  
33 provided in Section 42(m)(1) of the Internal Revenue Code. In  
34 adopting this plan, the committee shall comply with the provisions  
35 of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue  
36 Code.

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





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

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

8 (ii) The project's proposed financing, including tax credit  
9 proceeds, shall be sufficient to complete the project and that the  
10 proposed operating income shall be adequate to operate the project  
11 for the extended use period.

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

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

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

19 (vi) The housing sponsor shall demonstrate that the project  
20 development team has the experience and the financial capacity to  
21 ensure project completion and operation for the extended use  
22 period.

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

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

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

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



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

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

7 (ii) Projects providing single room occupancy units serving  
8 very low income tenants.

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

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

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

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

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

24 The term “secretary” shall be replaced by the term “California  
25 Franchise Tax Board.”

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

30 (m) The provisions of Section 11407(a) of Public Law  
31 101-508, relating to the effective date of the extension of the  
32 low-income housing credit, shall apply to calendar years after  
33 1993.

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

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

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



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

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

10 (3) “Housing sponsor” for purposes of this section means the  
11 sole owner in the case of an individual, the partnership in the case  
12 of a partnership, and the S corporation in the case of an S  
13 corporation.

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

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

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

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

27 (B) The California Tax Credit Allocation Committee shall not  
28 require fees for the credit under this section in addition to those  
29 fees required for applications for the tax credit pursuant to Section  
30 42 of the Internal Revenue Code. The committee may require a fee  
31 if the application for the credit under this section is submitted in  
32 a calendar year after the year the application is submitted for the  
33 federal tax credit.

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

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



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

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

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

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

14 (1) In the case of any qualified low-income building placed in  
15 service by the housing sponsor during 1987, the term “applicable  
16 percentage” means 9 percent for each of the first three years and  
17 3 percent for the fourth year for new buildings (whether or not the  
18 building is federally subsidized) and for existing buildings.

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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



1 (C) Any amount allowed to be distributed under subparagraph  
2 (A) that is not available for distribution during the first five years  
3 of the compliance period may be accumulated and distributed any  
4 time during the first 15 years of the compliance period but not  
5 thereafter.

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

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

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

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

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

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

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

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

35 (1) Section 42(h)(2) of the Internal Revenue Code shall not be  
36 applicable and instead the following provisions shall be  
37 applicable:

38 The total amount for the four-year period of the housing credit  
39 dollars allocated in a calendar year to any building shall reduce the  
40 aggregate housing credit dollar amount of the California Tax



1 Credit Allocation Committee for the calendar year in which the  
2 allocation is made.

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

6 (g) The aggregate housing credit dollar amount which may be  
7 allocated annually by the California Tax Credit Allocation  
8 Committee pursuant to this section, Section 12206, and Section  
9 23610.5 shall be an amount equal to the sum of all the following:

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

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

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

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

34 (i) Section 42(j) of the Internal Revenue Code shall not be  
35 applicable and the following requirements of this section shall be  
36 set forth in a regulatory agreement between the California Tax  
37 Credit Allocation Committee and the housing sponsor, which  
38 agreement shall be subordinated, when required, to any lien or  
39 encumbrance of any banks or other institutional lenders to the  
40 project. The regulatory agreement entered into pursuant to





1 subdivision (f) of Section 50199.14 of the Health and Safety Code  
2 shall apply, providing the agreement includes all of the following  
3 provisions:

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

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

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

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

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

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

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

30 (8) The remedies available in the event of a default under the  
31 regulatory agreement that is not cured within a reasonable cure  
32 period, include, but are not limited to, allowing any of the parties  
33 designated to enforce the regulatory agreement to collect all rents  
34 with respect to the project; taking possession of the project and  
35 operating the project in accordance with the regulatory agreement  
36 until the enforcer determines the housing sponsor is in a position  
37 to operate the project in accordance with the regulatory agreement;  
38 applying to any court for specific performance; securing the  
39 appointment of a receiver to operate the project; or any other relief  
40 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 the 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 there is a need and  
27 demand for low-income housing in the community or region for  
28 which it is proposed.

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

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

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

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



1 (vi) The housing sponsor shall demonstrate that the project  
2 development team has the experience and the financial capacity to  
3 ensure project completion and operation for the extended use  
4 period.

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

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

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

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

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

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

27 (ii) Projects providing single room occupancy units serving  
28 very low income tenants.

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

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

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

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



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

3 The term “secretary” shall be replaced by the term “California  
4 Franchise Tax Board.”

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

9 (m) A project that received an allocation of a 1989 federal  
10 housing credit dollar amount shall be eligible to receive an  
11 allocation of a 1990 state housing credit dollar amount, subject to  
12 all of the following conditions:

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

14 (2) To the extent the amendments made to this section by the  
15 Statutes of 1990 conflict with any provisions existing in this  
16 section prior to those amendments, the prior provisions of law  
17 shall prevail.

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

21 (n) The credit period with respect to an allocation of credit in  
22 1989 by the California Tax Credit Allocation Committee of which  
23 any amount is attributable to unallocated credit from 1987 or 1988  
24 shall not begin until after December 31, 1989.

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

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

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

32 This section shall remain in effect on and after December 1,  
33 1990, for as long as Section 42 of the Internal Revenue Code,  
34 relating to low-income housing credits, remains in effect.

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

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

1 23610.5. (a) (1) There shall be allowed as a credit against the  
2 “tax” (as defined by Section 23036) a state low-income housing  
3 tax credit in an amount equal to the amount determined in  
4 subdivision (c), computed in accordance with Section 42 of the  
5 Internal Revenue Code of 1986, except as otherwise provided in  
6 this section.

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

10 (3) “Housing sponsor,” for purposes of this section, means the  
11 sole owner in the case of a C corporation, the partnership in the  
12 case of a partnership, and the S corporation in the case of an S  
13 corporation.

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

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

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

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

27 (B) The California Tax Credit Allocation Committee shall not  
28 require fees for the credit under this section in addition to those  
29 fees required for applications for the tax credit pursuant to Section  
30 42 of the Internal Revenue Code. The committee may require a fee  
31 if the application for the credit under this section is submitted in  
32 a calendar year after the year the application is submitted for the  
33 federal tax credit.

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

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



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

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

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

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

14 (1) In the case of any qualified low-income building placed in  
15 service by the housing sponsor during 1987, the term “applicable  
16 percentage” means 9 percent for each of the first three years and  
17 3 percent for the fourth year for new buildings (whether or not the  
18 building is federally subsidized) and for existing buildings.

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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





1 (C) Any amount allowed to be distributed under subparagraph  
2 (A) that is not available for distribution during the first five years  
3 of the compliance period may accumulate and be distributed at any  
4 time during the first 15 years of the compliance period but not  
5 thereafter.

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

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

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

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

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

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

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

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

35 (1) Section 42(h)(2) of the Internal Revenue Code shall not be  
36 applicable and instead the following provisions shall be  
37 applicable:

38 The total amount for the four-year credit period of the housing  
39 credit dollars allocated in a calendar year to any building shall  
40 reduce the aggregate housing credit dollar amount of the



1 California Tax Credit Allocation Committee for the calendar year  
2 in which the allocation is made.

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

6 (g) The aggregate housing credit dollar amount that may be  
7 allocated annually by the California Tax Credit Allocation  
8 Committee pursuant to this section, Section 12206, and Section  
9 17058 shall be an amount equal to the sum of all the following:

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

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

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

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

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

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



1 agreement entered into pursuant to subdivision (f) of Section  
2 50199.14 of the Health and Safety Code shall apply, provided that  
3 the agreement includes all of the following provisions:

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

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

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

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

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

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

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

30 (8) A provision that the remedies available in the event of a  
31 default under the regulatory agreement that is not cured within a  
32 reasonable cure period include, but are not limited to, allowing any  
33 of the parties designated to enforce the regulatory agreement to  
34 collect all rents with respect to the project; taking possession of the  
35 project and operating the project in accordance with the regulatory  
36 agreement until the enforcer determines the housing sponsor is in  
37 a position to operate the project in accordance with the regulatory  
38 agreement; applying to any court for specific performance;  
39 securing the appointment of a receiver to operate the project; or  
40 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. *The California Tax Credit Allocation Committee shall*  
32 *review and evaluate the geographic apportionment methodology*  
33 *of the low-income housing tax credit program, taking into account,*  
34 *among other things, an equitable distribution of tax credits in*  
35 *accordance with regional and local housing needs, and shall*  
36 *report back to the Legislature no later than June 30, 2002.*





1     *SEC. 5.* This act provides for a tax levy within the meaning  
2 of Article IV of the Constitution and shall go into immediate  
3 effect.

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