

AMENDED IN ASSEMBLY MAY 2, 2013  
AMENDED IN ASSEMBLY MARCH 18, 2013  
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 952**

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**Introduced by Assembly Member Atkins**

February 22, 2013

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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

AB 952, as amended, Atkins. Low-income housing tax credits.

Existing law establishes a low-income housing tax credit program, administered by the California Tax Credit Allocation Committee, which provides procedures and requirements for the allocation of state tax credit amounts among low-income housing projects based on federal law, as modified. Existing law, among other things, allows the credit based on the applicable percentage, as defined.

Existing insurance taxation law prohibits a credit from being allocated under this law to buildings located in a difficult development area or a qualified census tract, as defined, for which the eligible basis of a new building or the rehabilitation expenditure of an existing building is 130% of a specified amount, unless the committee reduces the amount of federal credit, with the approval of the applicant, so that the combined amount of federal and state credit does not exceed the total credit allowable pursuant to this section and the Internal Revenue Code.

The Personal Income Tax Law and the Corporation Tax Law allow a credit for buildings located in designated difficult development areas

or qualified census tracts, as defined, allocated in specified amounts, provided that the amount of credit allocated under the Section 42 of the Internal Revenue Code is computed on 100% of the qualified basis of the building.

This bill would, under the insurance taxation law, allow a credit for buildings located in designated difficult development areas or qualified census tracts allocated in the specified amounts, provided that the amount of credit allocated under Section 42 of the Internal Revenue Code is computed on 100% of the qualified basis of the building.

This bill would, under the insurance taxation law, the Personal Income Tax Law, and the Corporation Tax Law, authorize the California Tax Credit Allocation Committee to allocate a credit for buildings located in designated difficult development areas or qualified census tracts that are restricted to having 50% of its occupants be special needs households, as defined, even if the taxpayer receives specified federal credits, if the credit allowed under this section does not exceed 30% of the eligible basis of that building. This bill would, for purposes of all 3 laws, allow the California Tax Credit Allocation Committee to exchange federal low-income housing credits for state low-income housing credits, as specified.

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 Code
- 2 is amended to read:
- 3 12206. (a) (1) There shall be allowed as a credit against the
- 4 “tax” (as described 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
- 11 a partnership, and the shareholders in the case of an “S”
- 12 corporation.
- 13 (3) “Housing sponsor,” for purposes of this section, means the
- 14 sole owner in the case of a “C” corporation, the partnership in the

1 case of a partnership, and the “S” corporation in the case of an “S”  
2 corporation.

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

8 (A) Except for projects to provide farmworker housing, as  
9 defined in subdivision (h) of Section 50199.7 of the Health and  
10 Safety Code, that are allocated credits solely under the set-aside  
11 described in subdivision (c) of Section 50199.20 of the Health and  
12 Safety Code, the low-income housing project shall be located in  
13 California and shall meet either of the following requirements:

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

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

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

27 (C) (i) For a project that receives a preliminary reservation of  
28 the state low-income housing tax credit, allowed pursuant to  
29 subdivision (a), on or after January 1, 2009, and before January 1,  
30 2016, the credit shall be allocated to the partners of a partnership  
31 owning the project in accordance with the partnership agreement,  
32 regardless of how the federal low-income housing tax credit with  
33 respect to the project is allocated to the partners, or whether the  
34 allocation of the credit under the terms of the agreement has  
35 substantial economic effect, within the meaning of Section 704(b)  
36 of the Internal Revenue Code.

37 (ii) This subparagraph shall not apply to a project that receives  
38 a preliminary reservation of state low-income housing tax credits  
39 under the set-aside described in subdivision (c) of Section 50199.20

1 of the Health and Safety Code unless the project also receives a  
2 preliminary reservation of federal low-income housing tax credits.

3 (iii) This subparagraph shall cease to be operative with respect  
4 to any project that receives a preliminary reservation of a credit  
5 on or after January 1, 2016.

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

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

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

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

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

20 (F) (i) Except as described in clause (ii), for buildings located  
21 in designated difficult development areas (DDAs) or qualified  
22 census tracts (QCTs), as defined in Section 42(d)(5)(B) of the  
23 Internal Revenue Code, credits may be allocated under this section  
24 in the amounts prescribed in subdivision (c), provided that the  
25 amount of credit allocated under Section 42 of the Internal Revenue  
26 Code is computed on 100 percent of the qualified basis of the  
27 building.

28 (ii) Notwithstanding clause (i), the California Tax Credit  
29 Allocation Committee may allocate the credit for buildings located  
30 in DDAs or QCTs that are restricted to having 50 percent of its  
31 occupants be special needs households, as defined in the California  
32 Code of Regulations by the California Tax Credit Allocation  
33 Committee, even if the taxpayer receives federal credits pursuant  
34 to Section 42(d)(5)(B) of the Internal Revenue Code, provided  
35 that the credit allowed under this section shall not exceed 30  
36 percent of the eligible basis of the building.

37 (iii) (I) The California Tax Credit Allocation Committee may  
38 allocate a credit under this section in exchange for a credit allocated  
39 pursuant to Section 42(d)(5)(B) of the Internal Revenue Code in  
40 amounts up to 30 percent of the eligible basis of a building if the

1 credits allowed under Section 42 of the Internal Revenue Code are  
2 reduced by an equivalent amount.

3 (II) An equivalent amount shall be determined by the California  
4 Tax Credit Allocation Committee based upon the relative amount  
5 required to produce an equivalent state tax credit to the taxpayer.

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

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

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

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

19 (2) In the case of any qualified low-income building that receives  
20 an allocation after 1989 and that is a new building that is federally  
21 subsidized or that is an existing building that is “at risk of  
22 conversion,” the term “applicable percentage” means the 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 federally  
25 subsidized for the taxable year.

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

28 (3) For purposes of this section, the term “at risk of conversion,”  
29 with respect to an existing property means a property that satisfies  
30 all of the following criteria:

31 (A) The property is a multifamily rental housing development  
32 in which at least 50 percent of the units receive governmental  
33 assistance pursuant to any of the following:

34 (i) New construction, substantial rehabilitation, moderate  
35 rehabilitation, property disposition, and loan management set-aside  
36 programs, or any other program providing project-based assistance  
37 pursuant to Section 8 of the United States Housing Act of 1937,  
38 Section 1437f of Title 42 of the United States Code, as amended.

1 (ii) The Below-Market-Interest-Rate Program pursuant to  
2 Section 221(d)(3) of the National Housing Act, Sections  
3 1715l(d)(3) and (5) of Title 12 of the United States Code.

4 (iii) Section 236 of the National Housing Act, Section 1715z-1  
5 of Title 12 of the United States Code.

6 (iv) Programs for rent supplement assistance pursuant to Section  
7 101 of the Housing and Urban Development Act of 1965, Section  
8 1701s of Title 12 of the United States Code, as amended.

9 (v) Programs pursuant to Section 515 of the Housing Act of  
10 1949, Section 1485 of Title 42 of the United States Code, as  
11 amended.

12 (vi) The low-income housing credit program set forth in Section  
13 42 of the Internal Revenue Code.

14 (B) The restrictions on rent and income levels will terminate or  
15 the federal insured mortgage on the property is eligible for  
16 prepayment any time within five years before or after the date of  
17 application to the California Tax Credit Allocation Committee.

18 (C) The entity acquiring the property enters into a regulatory  
19 agreement that requires the property to be operated in accordance  
20 with the requirements of this section for a period equal to the  
21 greater of 55 years or the life of the property.

22 (D) The property satisfies the requirements of Section 42(e) of  
23 the Internal Revenue Code regarding rehabilitation expenditures,  
24 except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not  
25 apply.

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

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

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

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

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

38 (B) The amount of the cashflow from those units in the building  
39 that are not low-income units. For purposes of computing cashflow  
40 under this subparagraph, operating costs shall be allocated to the

1 low-income units using the “floor space fraction,” as defined in  
2 Section 42 of the Internal Revenue Code.

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

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

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

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

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

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

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

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

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

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

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

1 reduce the aggregate housing credit dollar amount of the California  
2 Tax Credit Allocation Committee for the calendar year in which  
3 the allocation is made.

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

7 (g) The aggregate housing credit dollar amount that may be  
8 allocated annually by the California Tax Credit Allocation  
9 Committee pursuant to this section, Section 17058, and Section  
10 23610.5 shall be an amount equal to the sum of all the following:

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

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

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

30 (4) Five hundred thousand dollars (\$500,000) per calendar year  
31 for projects to provide farmworker housing, as defined in  
32 subdivision (h) of Section 50199.7 of the Health and Safety Code.

33 (5) The amount of any unallocated or returned credits under  
34 former Sections 17053.14, 23608.2, and 23608.3, as those sections  
35 read prior to January 1, 2009, until fully exhausted for projects to  
36 provide farmworker housing, as defined in subdivision (h) of  
37 Section 50199.7 of the Health and Safety Code.

38 (h) The term “compliance period” as defined in Section 42(i)(1)  
39 of the Internal Revenue Code is modified to mean, with respect to



1 any building, the period of 30 consecutive taxable years beginning  
2 with the first taxable year of the credit period with respect thereto.

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

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

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

15 (B) A requirement that the agreement be ~~filed~~ *recorded* in the  
16 official records of the county in which the qualified low-income  
17 housing project is located.

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

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

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

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

34 (G) A requirement that the housing sponsor, as security for the  
35 performance of the housing sponsor's obligations under the  
36 regulatory agreement, assign the housing sponsor's interest in rents  
37 that it receives from the project, provided that until there is a  
38 default under the regulatory agreement, the housing sponsor is  
39 entitled to collect and retain the rents.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 The term “secretary” shall be replaced by the term “California  
17 Franchise Tax Board.”

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

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

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

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

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

32 17058. (a) (1) There shall be allowed as a credit against the  
33 “net tax” (as defined in Section 17039) a state low-income housing  
34 credit in an amount equal to the amount determined in subdivision  
35 (c), computed in accordance with the provisions of Section 42 of  
36 the Internal Revenue Code, except as otherwise provided in this  
37 section.

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

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

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

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

12 (i) Except for projects to provide farmworker housing, as defined  
13 in subdivision (h) of Section 50199.7 of the Health and Safety  
14 Code, that are allocated credits solely under the set-aside described  
15 in subdivision (c) of Section 50199.20 of the Health and Safety  
16 Code, the project’s housing sponsor has been allocated by the  
17 California Tax Credit Allocation Committee a credit for federal  
18 income tax purposes under Section 42 of the Internal Revenue  
19 Code.

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

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

29 (C) (i) For a project that receives a preliminary reservation of  
30 the state low-income housing tax credit, allowed pursuant to  
31 subdivision (a), on or after January 1, 2009, and before January 1,  
32 2016, the credit shall be allocated to the partners of a partnership  
33 owning the project in accordance with the partnership agreement,  
34 regardless of how the federal low-income housing tax credit with  
35 respect to the project is allocated to the partners, or whether the  
36 allocation of the credit under the terms of the agreement has  
37 substantial economic effect, within the meaning of Section 704(b)  
38 of the Internal Revenue Code.

39 (ii) To the extent the allocation of the credit to a partner under  
40 this section lacks substantial economic effect, any loss or deduction

1 otherwise allowable under this part that is attributable to the sale  
 2 or other disposition of that partner’s partnership interest made prior  
 3 to the expiration of the federal credit shall not be allowed in the  
 4 taxable year in which the sale or other disposition occurs, but shall  
 5 instead be deferred until and treated as if it occurred in the first  
 6 taxable year immediately following the taxable year in which the  
 7 federal credit period expires for the project described in clause (i).

8 (iii) This subparagraph shall not apply to a project that receives  
 9 a preliminary reservation of state low-income housing tax credits  
 10 under the set-aside described in subdivision (c) of Section 50199.20  
 11 of the Health and Safety Code unless the project also receives a  
 12 preliminary reservation of federal low-income housing tax credits.

13 (iv) This subparagraph shall cease to be operative with respect  
 14 to any project that receives a preliminary reservation of a credit  
 15 on or after January 1, 2016.

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

19 (B) In the case of a partnership or an “S” corporation, the  
 20 housing sponsor shall provide a copy of the California Tax Credit  
 21 Allocation Committee certification to the taxpayer.

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

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

26 (E) (i) Except as described in clause (ii), for buildings located  
 27 in designated difficult development areas (DDAs) or qualified  
 28 census tracts (QCTs), as defined in Section 42(d)(5)(B) of the  
 29 Internal Revenue Code, credits may be allocated under this section  
 30 in the amounts prescribed in subdivision (c), provided that the  
 31 amount of credit allocated under Section 42 of the Internal Revenue  
 32 Code is computed on 100 percent of the qualified basis of the  
 33 building.

34 (ii) Notwithstanding clause (i), the California Tax Credit  
 35 Allocation Committee may allocate the credit for buildings located  
 36 in DDAs or QCTs that are restricted to having 50 percent of its  
 37 occupants be special needs households, as defined in the California  
 38 Code of Regulations by the California Tax Credit Allocation  
 39 Committee, even if the taxpayer receives federal credits pursuant  
 40 to Section 42(d)(5)(B) of the Internal Revenue Code, provided

1 that the credit allowed under this section shall not exceed 30  
2 percent of the eligible basis of the building.

3 (iii) (I) The California Tax Credit Allocation Committee may  
4 allocate a credit under this section in exchange for a credit allocated  
5 pursuant to Section 42(d)(5)(B) of the Internal Revenue Code in  
6 amounts up to 30 percent of the eligible basis of a building if the  
7 credits allowed under Section 42 of the Internal Revenue Code are  
8 reduced by an equivalent amount.

9 (II) An equivalent amount shall be determined by the California  
10 Tax Credit Allocation Committee based upon the relative amount  
11 required to produce an equivalent state tax credit to the taxpayer.

12 (c) Section 42(b) of the Internal Revenue Code shall be modified  
13 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 receives  
20 an allocation after 1989 and is a new building not federally  
21 subsidized, the term “applicable percentage” means the following:

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

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

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

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

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

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

4 (A) The property is a multifamily rental housing development  
5 in which at least 50 percent of the units receive governmental  
6 assistance pursuant to any of the following:

7 (i) New construction, substantial rehabilitation, moderate  
8 rehabilitation, property disposition, and loan management set-aside  
9 programs, or any other program providing project-based assistance  
10 pursuant to Section 8 of the United States Housing Act of 1937,  
11 Section 1437f of Title 42 of the United States Code, as amended.

12 (ii) The Below-Market-Interest-Rate Program pursuant to  
13 Section 221(d)(3) of the National Housing Act, Sections  
14 1715l(d)(3) and (5) of Title 12 of the United States Code.

15 (iii) Section 236 of the National Housing Act, Section 1715z-1  
16 of Title 12 of the United States Code.

17 (iv) Programs for rent supplement assistance pursuant to Section  
18 101 of the Housing and Urban Development Act of 1965, Section  
19 1701s of Title 12 of the United States Code, as amended.

20 (v) Programs pursuant to Section 515 of the Housing Act of  
21 1949, Section 1485 of Title 42 of the United States Code, as  
22 amended.

23 (vi) The low-income housing credit program set forth in Section  
24 42 of the Internal Revenue Code.

25 (B) The restrictions on rent and income levels will terminate or  
26 the federal insured mortgage on the property is eligible for  
27 prepayment any time within five years before or after the date of  
28 application to the California Tax Credit Allocation Committee.

29 (C) The entity acquiring the property enters into a regulatory  
30 agreement that requires the property to be operated in accordance  
31 with the requirements of this section for a period equal to the  
32 greater of 55 years or the life of the property.

33 (D) The property satisfies the requirements of Section 42(e) of  
34 the Internal Revenue Code regarding rehabilitation expenditures,  
35 except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not  
36 apply.

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



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

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

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

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

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

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

20 (2) The limitation on return shall apply in the aggregate to the  
21 partners if the housing sponsor is a partnership and in the aggregate  
22 to the shareholders if the housing sponsor is an “S” corporation.

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

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

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

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

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

38 If, as of the close of any taxable year in the compliance period,  
39 after the first year of the credit period, the qualified basis of any  
40 building exceeds the qualified basis of that building as of the close

1 of the first year of the credit period, the housing sponsor, to the  
2 extent of its tax credit allocation, shall be eligible for a credit on  
3 the excess in an amount equal to the applicable percentage  
4 determined pursuant to subdivision (c) for the four-year period  
5 beginning with the taxable year in which the increase in qualified  
6 basis occurs.

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

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

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

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

19 (g) The aggregate housing credit dollar amount that may be  
20 allocated annually by the California Tax Credit Allocation  
21 Committee pursuant to this section, Section 12206, and Section  
22 23610.5 shall be an amount equal to the sum of all the following:

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

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

34 (3) The amount of housing credit ceiling returned in the calendar  
35 year. For purposes of this paragraph, the amount of housing credit  
36 dollar amount returned in the calendar year equals the housing  
37 credit dollar amount previously allocated to any project that does  
38 not become a qualified low-income housing project within the  
39 period required by this section or to any project with respect to

1 which an allocation is canceled by mutual consent of the California  
2 Tax Credit Allocation Committee and the allocation recipient.

3 (4) Five hundred thousand dollars (\$500,000) per calendar year  
4 for projects to provide farmworker housing, as defined in  
5 subdivision (h) of Section 50199.7 of the Health and Safety Code.

6 (5) The amount of any unallocated or returned credits under  
7 former Sections 17053.14, 23608.2, and 23608.3, as those sections  
8 read prior to January 1, 2009, until fully exhausted for projects to  
9 provide farmworker housing, as defined in subdivision (h) of  
10 Section 50199.7 of the Health and Safety Code.

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

15 (i) Section 42(j) of the Internal Revenue Code shall not be  
16 applicable and the following requirements of this section shall be  
17 set forth in a regulatory agreement between the California Tax  
18 Credit Allocation Committee and the housing sponsor, which  
19 agreement shall be subordinated, when required, to any lien or  
20 encumbrance of any banks or other institutional lenders to the  
21 project. The regulatory agreement entered into pursuant to  
22 subdivision (f) of Section 50199.14 of the Health and Safety Code  
23 shall apply, provided that the agreement includes all of the  
24 following provisions:

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

26 (2) A requirement that the agreement be ~~filed~~ *recorded* in the  
27 official records of the county in which the qualified low-income  
28 housing project is located.

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

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

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

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

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

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

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

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

39 (3) Notwithstanding Section 42(m) of the Internal Revenue  
40 Code, the California Tax Credit Allocation Committee shall

1 allocate housing credits in accordance with the qualified allocation  
2 plan and regulations, which shall include the following provisions:

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

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

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

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

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

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

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

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

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

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

39 (ii) The project is obligated to serve qualified tenants for the  
40 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 number,  
5 as defined by the committee, of all residential units is comprised  
6 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 defined  
10 by paragraph (4) of subdivision (c).

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

16 (v) Projects that provide tenant amenities not generally available  
17 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  
20 of the date of submission of its application.

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

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

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

29 (m) A project that received an allocation of a 1989 federal  
30 housing credit dollar amount shall be eligible to receive an  
31 allocation of a 1990 state housing credit dollar amount, subject to  
32 all of the following conditions:

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

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

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

1 (n) The credit period with respect to an allocation of credit in  
2 1989 by the California Tax Credit Allocation Committee of which  
3 any amount is attributable to unallocated credit from 1987 or 1988  
4 shall not begin until after December 31, 1989.

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

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

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

12 This section shall remain in effect on and after December 1,  
13 1990, for as long as Section 42 of the Internal Revenue Code,  
14 relating to low-income housing credits, remains in effect.

15 (r) The amendments to this section made by the act adding this  
16 subdivision shall apply only to taxable years beginning on or after  
17 January 1, 1994.

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

20 23610.5. (a) (1) There shall be allowed as a credit against the  
21 “tax” (as defined by Section 23036) a state low-income housing  
22 tax credit in an amount equal to the amount determined in  
23 subdivision (c), computed in accordance with Section 42 of the  
24 Internal Revenue Code of 1986, except as otherwise provided in  
25 this section.

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

30 (3) “Housing sponsor,” for purposes of this section, means the  
31 sole owner in the case of a “C” corporation, the partnership in the  
32 case of a partnership, and the “S” corporation in the case of an “S”  
33 corporation.

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

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

1 (i) Except for projects to provide farmworker housing, as defined  
2 in subdivision (h) of Section 50199.7 of the Health and Safety  
3 Code, that are allocated credits solely under the set-aside described  
4 in subdivision (c) of Section 50199.20 of the Health and Safety  
5 Code, the project's housing sponsor has been allocated by the  
6 California Tax Credit Allocation Committee a credit for federal  
7 income tax purposes under Section 42 of the Internal Revenue  
8 Code.

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

11 (B) The California Tax Credit Allocation Committee shall not  
12 require fees for the credit under this section in addition to those  
13 fees required for applications for the tax credit pursuant to Section  
14 42 of the Internal Revenue Code. The committee may require a  
15 fee if the application for the credit under this section is submitted  
16 in a calendar year after the year the application is submitted for  
17 the federal tax credit.

18 (C) (i) For a project that receives a preliminary reservation of  
19 the state low-income housing tax credit, allowed pursuant to  
20 subdivision (a), on or after January 1, 2009, and before January 1,  
21 2016, the credit shall be allocated to the partners of a partnership  
22 owning the project in accordance with the partnership agreement,  
23 regardless of how the federal low-income housing tax credit with  
24 respect to the project is allocated to the partners, or whether the  
25 allocation of the credit under the terms of the agreement has  
26 substantial economic effect, within the meaning of Section 704(b)  
27 of the Internal Revenue Code.

28 (ii) To the extent the allocation of the credit to a partner under  
29 this section lacks substantial economic effect, any loss or deduction  
30 otherwise allowable under this part that is attributable to the sale  
31 or other disposition of that partner's partnership interest made prior  
32 to the expiration of the federal credit shall not be allowed in the  
33 taxable year in which the sale or other disposition occurs, but shall  
34 instead be deferred until and treated as if it occurred in the first  
35 taxable year immediately following the taxable year in which the  
36 federal credit period expires for the project described in clause (i).

37 (iii) This subparagraph shall not apply to a project that receives  
38 a preliminary reservation of state low-income housing tax credits  
39 under the set-aside described in subdivision (c) of Section 50199.20



1 of the Health and Safety Code unless the project also receives a  
2 preliminary reservation of federal low-income housing tax credits.

3 (iv) This subparagraph shall cease to be operative with respect  
4 to any project that receives a preliminary reservation of a credit  
5 on or after January 1, 2016.

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

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

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

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

16 (E) (i) Except as described in clause (ii), for buildings located  
17 in designated difficult development areas (DDAs) or qualified  
18 census tracts (QCTs), as defined in Section 42(d)(5)(B) of the  
19 Internal Revenue Code, credits may be allocated under this section  
20 in the amounts prescribed in subdivision (c), provided that the  
21 amount of credit allocated under Section 42 of the Internal Revenue  
22 Code is computed on 100 percent of the qualified basis of the  
23 building.

24 (ii) Notwithstanding clause (i), the California Tax Credit  
25 Allocation Committee may allocate the credit for buildings located  
26 in DDAs or QCTs that are restricted to having 50 percent of its  
27 occupants be special needs households, as defined in the California  
28 Code of Regulations by the California Tax Credit Allocation  
29 Committee, even if the taxpayer receives federal credits pursuant  
30 to Section 42(d)(5)(B) of the Internal Revenue Code, provided  
31 that the credit allowed under this section shall not exceed 30  
32 percent of the eligible basis of the building.

33 (iii) (I) The California Tax Credit Allocation Committee may  
34 allocate a credit under this section in exchange for a credit allocated  
35 pursuant to Section 42(d)(5)(B) of the Internal Revenue Code in  
36 amounts up to 30 percent of the eligible basis of a building if the  
37 credits allowed under Section 42 of the Internal Revenue Code are  
38 reduced by an equivalent amount.

1 (II) An equivalent amount shall be determined by the California  
2 Tax Credit Allocation Committee based upon the relative amount  
3 required to produce an equivalent state tax credit to the taxpayer.

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

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

11 (2) In the case of any qualified low-income building that receives  
12 an allocation after 1989 and is a new building not federally  
13 subsidized, the term “applicable percentage” means the 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 not  
16 federally subsidized for the taxable year, determined in accordance  
17 with the requirements of Section 42(b)(2) of the Internal Revenue  
18 Code, in lieu of the percentage prescribed in Section 42(b)(1)(A)  
19 of the Internal Revenue Code.

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

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

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

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

31 (4) For purposes of this section, the term “at risk of conversion,”  
32 with respect to an existing property means a property that satisfies  
33 all of the following criteria:

34 (A) The property is a multifamily rental housing development  
35 in which at least 50 percent of the units receive governmental  
36 assistance pursuant to any of the following:

37 (i) New construction, substantial rehabilitation, moderate  
38 rehabilitation, property disposition, and loan management set-aside  
39 programs, or any other program providing project-based assistance

1 pursuant to Section 8 of the United States Housing Act of 1937,  
2 Section 1437f of Title 42 of the United States Code, as amended.

3 (ii) The Below-Market-Interest-Rate Program pursuant to  
4 Section 221(d)(3) of the National Housing Act, Sections  
5 1715l(d)(3) and (5) of Title 12 of the United States Code.

6 (iii) Section 236 of the National Housing Act, Section 1715z-1  
7 of Title 12 of the United States Code.

8 (iv) Programs for rent supplement assistance pursuant to Section  
9 101 of the Housing and Urban Development Act of 1965, Section  
10 1701s of Title 12 of the United States Code, as amended.

11 (v) Programs pursuant to Section 515 of the Housing Act of  
12 1949, Section 1485 of Title 42 of the United States Code, as  
13 amended.

14 (vi) The low-income housing credit program set forth in Section  
15 42 of the Internal Revenue Code.

16 (B) The restrictions on rent and income levels will terminate or  
17 the federally insured mortgage on the property is eligible for  
18 prepayment any time within five years before or after the date of  
19 application to the California Tax Credit Allocation Committee.

20 (C) The entity acquiring the property enters into a regulatory  
21 agreement that requires the property to be operated in accordance  
22 with the requirements of this section for a period equal to the  
23 greater of 55 years or the life of the property.

24 (D) The property satisfies the requirements of Section 42(e) of  
25 the Internal Revenue Code regarding rehabilitation expenditures,  
26 except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not  
27 apply.

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

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

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

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

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

1 (B) The amount of the cashflow from those units in the building  
2 that are not low-income units. For purposes of computing cashflow  
3 under this subparagraph, operating costs shall be allocated to the  
4 low-income units using the “floor space fraction,” as defined in  
5 Section 42 of the Internal Revenue Code.

6 (C) Any amount allowed to be distributed under subparagraph  
7 (A) that is not available for distribution during the first five years  
8 of the compliance period may be accumulated and distributed any  
9 time during the first 15 years of the compliance period but not  
10 thereafter.

11 (2) The limitation on return shall apply in the aggregate to the  
12 partners if the housing sponsor is a partnership and in the aggregate  
13 to the shareholders if the housing sponsor is an “S” corporation.

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

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

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

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

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

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

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

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

3 The total amount for the four-year credit period of the housing  
4 credit dollars allocated in a calendar year to any building shall  
5 reduce the aggregate housing credit dollar amount of the California  
6 Tax Credit Allocation Committee for the calendar year in which  
7 the allocation is made.

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

11 (g) The aggregate housing credit dollar amount that may be  
12 allocated annually by the California Tax Credit Allocation  
13 Committee pursuant to this section, Section 12206, and Section  
14 17058 shall be an amount equal to the sum of all the following:

15 (1) Seventy million dollars (\$70,000,000) for the 2001 calendar  
16 year, and, for the 2002 calendar year and each calendar year  
17 thereafter, seventy million dollars (\$70,000,000) increased by the  
18 percentage, if any, by which the Consumer Price Index for the  
19 preceding calendar year exceeds the Consumer Price Index for the  
20 2001 calendar year. For the purposes of this paragraph, the term  
21 “Consumer Price Index” means the last Consumer Price Index for  
22 ~~all urban consumers~~ *All Urban Consumers* published by the federal  
23 Department of Labor.

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

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

34 (4) Five hundred thousand dollars (\$500,000) per calendar year  
35 for projects to provide farmworker housing, as defined in  
36 subdivision (h) of Section 50199.7 of the Health and Safety Code.

37 (5) The amount of any unallocated or returned credits under  
38 former Sections 17053.14, 23608.2, and 23608.3, as those sections  
39 read prior to January 1, 2009, until fully exhausted for projects to

1 provide farmworker housing, as defined in subdivision (h) of  
2 Section 50199.7 of the Health and Safety Code.

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

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

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

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

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

21 (3) 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 (4) A provision that the regulatory agreement shall be deemed  
25 a contract enforceable by tenants as third-party beneficiaries  
26 thereto, and that allows individuals, whether prospective, present,  
27 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 (5) A provision incorporating the requirements of Section 42  
31 of the Internal Revenue Code as modified by this section.

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

36 (7) A requirement that the housing sponsor, as security for the  
37 performance of the housing sponsor’s obligations under the  
38 regulatory agreement, assign the housing sponsor’s interest in rents  
39 that it receives from the project, provided that until there is a

1 default under the regulatory agreement, the housing sponsor is  
2 entitled to collect and retain the rents.

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

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

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

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

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

- 1 (i) The housing sponsor shall demonstrate that there is a need  
2 for low-income housing in the community or region for which it  
3 is proposed.
- 4 (ii) The project's proposed financing, including tax credit  
5 proceeds, shall be sufficient to complete the project and shall be  
6 adequate to operate the project for the extended use period.
- 7 (iii) The project shall have enforceable financing commitments,  
8 either construction or permanent financing, for at least 50 percent  
9 of the total estimated financing of the project.
- 10 (iv) The housing sponsor shall have and maintain control of the  
11 site for the project.
- 12 (v) The housing sponsor shall demonstrate that the project  
13 complies with all applicable local land use and zoning ordinances.
- 14 (vi) The housing sponsor shall demonstrate that the project  
15 development team has the experience and the financial capacity  
16 to ensure project completion and operation for the extended use  
17 period.
- 18 (vii) The housing sponsor shall demonstrate the amount of tax  
19 credit that is necessary for the financial feasibility of the project  
20 and its viability as a qualified low-income housing project  
21 throughout the extended use period, taking into account operating  
22 expenses, a supportable debt service, reserves, funds set aside for  
23 rental subsidies; and required equity, and a development fee that  
24 does not exceed a specified percentage of the eligible basis of the  
25 project prior to inclusion of the development fee in the eligible  
26 basis, as determined by the committee.
- 27 (B) The committee shall give a preference to those projects  
28 satisfying all of the threshold requirements of subparagraph (A)  
29 if both of the following apply:
- 30 (i) The project serves the lowest income tenants at rents  
31 affordable to those tenants.
- 32 (ii) The project is obligated to serve qualified tenants for the  
33 longest period.
- 34 (C) In addition to the provisions of subparagraphs (A) and (B),  
35 the committee shall use the following criteria in allocating housing  
36 credits:
- 37 (i) Projects serving large families in which a substantial number,  
38 as defined by the committee, of all residential units are low-income  
39 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 defined  
4 by paragraph (4) of subdivision (c).

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

10 (v) Projects that provide tenant amenities not generally available  
11 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  
14 of the date of submission of its application except to break a tie  
15 when two or more of the projects have an equal rating.

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

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

27 The term “secretary” shall be replaced by the term “California  
28 Franchise Tax Board.”

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

33 (m) A project that received an allocation of a 1989 federal  
34 housing credit dollar amount shall be eligible to receive an  
35 allocation of a 1990 state housing credit dollar amount, subject to  
36 all of the following conditions:

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

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

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

4 (n) The credit period with respect to an allocation of credit in  
5 1989 by the California Tax Credit Allocation Committee of which  
6 any amount is attributable to unallocated credit from 1987 or 1988  
7 shall not begin until after December 31, 1989.

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

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

13 (q) (1) A corporation may elect to assign any portion of any  
14 credit allowed under this section to one or more affiliated  
15 corporations for each taxable year in which the credit is allowed.  
16 For purposes of this subdivision, “affiliated corporation” has the  
17 meaning provided in subdivision (b) of Section 25110, as that  
18 section was amended by Chapter 881 of the Statutes of 1993, as  
19 of the last day of the taxable year in which the credit is allowed,  
20 except that “100 percent” is substituted for “more than 50 percent”  
21 wherever it appears in the section, as that section was amended by  
22 Chapter 881 of the Statutes of 1993, and “voting common stock”  
23 is substituted for “voting stock” wherever it appears in the section,  
24 as that section was amended by Chapter 881 of the Statutes of  
25 1993.

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

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

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

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

35 (r) Any unused credit may continue to be carried forward, as  
36 provided in subdivision (l), until the credit has been exhausted.

37 This section shall remain in effect on and after December 1,  
38 1990, for as long as Section 42 of the Internal Revenue Code,  
39 relating to low-income housing credits, remains in effect.

1 (s) The amendments to this section made by the act adding this  
2 subdivision shall apply only to taxable years beginning on or after  
3 January 1, 1994, except that paragraph (1) of subdivision (q), as  
4 amended, shall apply to taxable years beginning on or after January  
5 1, 1993.

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

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