

AMENDED IN ASSEMBLY MARCH 2, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 35

**Introduced by ~~Assembly Member Chiu~~ *Assembly Members Chiu
and Atkins***

December 1, 2014

~~An act to add Sections 17059 and 23610.6 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy. 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 35, as amended, Chiu. ~~Taxation: income taxes: very-low and extremely low-income housing credit. Income taxes: credits: low-income housing: allocation increase.~~

Existing law establishes a low-income housing tax credit program pursuant to which the California Tax Credit Allocation Committee provides procedures and requirements for the allocation of state insurance, income, and corporation tax credit amounts among low-income housing projects based on federal law. Existing law limits the total annual amount of the credit that the committee may allocate to \$70 million per year, as specified.

This bill, for calendar years beginning 2015, would increase the aggregate housing credit dollar amount that may be allocated among low-income housing projects by \$300,000,000, as specified.

This bill would take effect immediately as a tax levy.

~~The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws, including a~~

state low-income housing tax credit, 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, which requires a 30 % present value credit for existing buildings, with the credit claimed over a 10-year period, as modified. Existing law generally requires the project's housing sponsor to have been allocated a credit for federal income tax purposes, as specified.

This bill would allow a very low-income and extremely low-income housing credit against those taxes for each taxable year on or after January 1, 2015, in an amount computed and allowed in accordance with a specified section of the Internal Revenue Code, as provided. The bill would specify that a project is not required to have been previously or currently allocated a credit for federal or state income tax purposes, as specified. The bill would make the aggregate housing credit dollar amount \$40,000,000 to be allocated annually by the committee on a first-come-first-served basis subject to certain requirements being met, including that the project will be used exclusively for the restructuring, including the acquisition and substantial rehabilitation, of buildings at least 20 years old that currently serve very low-income, extremely low-income, single room occupancy (SRO) or rural area residents. The bill would authorize the committee and the Franchise Tax Board to adopt regulations to carry out the purposes of this section. The bill would make findings and declarations in this regard.

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 “tax,” as described by Section 12201) 12201, a state
- 5 low-income housing tax credit in an amount equal to the amount
- 6 determined in subdivision (c), computed in accordance with Section
- 7 42 of the Internal Revenue Code, relating to low-income housing
- 8 credit, except as otherwise provided in this 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

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

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

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

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

18 (i) The project’s housing sponsor ~~shall have~~ *has* been allocated
19 by the California Tax Credit Allocation Committee a credit for
20 federal income tax purposes under Section 42 of the Internal
21 Revenue Code, *relating to low-income housing credit*.

22 (ii) It ~~shall qualify~~ *qualifies* for a credit under Section
23 42(h)(4)(B) of the Internal Revenue Code, *relating to special rule*
24 *where 50 percent or more of building is financed with tax-exempt*
25 *bonds subject to volume cap*.

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

33 (C) (i) For a project that receives a preliminary reservation of
34 the state low-income housing tax credit, allowed pursuant to
35 subdivision (a), on or after January 1, 2009, and before January 1,
36 2016, the credit shall be allocated to the partners of a partnership
37 owning the project in accordance with the partnership agreement,
38 regardless of how the federal low-income housing tax credit with
39 respect to the project is allocated to the partners, or whether the
40 allocation of the credit under the terms of the agreement has

1 substantial economic effect, within the meaning of Section 704(b)
2 of the Internal Revenue Code, *relating to determination of*
3 *distributive share*.

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

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

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

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

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

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

24 (E) All elections made by the taxpayer pursuant to Section 42
25 of the Internal Revenue Code, *relating to low-income housing*
26 *credit*, shall apply to this section.

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

36 (ii) Notwithstanding clause (i), the California Tax Credit
37 Allocation Committee may allocate the credit for buildings located
38 in DDAs or QCTs that are restricted to having 50 percent of its
39 occupants be special needs households, as defined in the California
40 Code of Regulations by the California Tax Credit Allocation

1 Committee, even if the taxpayer receives federal credits pursuant
2 to Section 42(d)(5)(B) of the Internal Revenue Code, *relating to*
3 *increase in credit for buildings in high-cost areas*, provided that
4 the credit allowed under this section shall not exceed 30 percent
5 of the eligible basis of the building.

6 (G) (i) The California Tax Credit Allocation Committee may
7 allocate a credit under this section in exchange for a credit allocated
8 pursuant to Section 42(d)(5)(B) of the Internal Revenue Code,
9 *relating to increase in credit for buildings in high-cost areas*, in
10 amounts up to 30 percent of the eligible basis of a building if the
11 credits allowed under Section 42 of the Internal Revenue Code,
12 *relating to low-income nursing credit*, are reduced by an equivalent
13 amount.

14 (ii) An equivalent amount shall be determined by the California
15 Tax Credit Allocation Committee based upon the relative amount
16 required to produce an equivalent state tax credit to the taxpayer.

17 (c) Section 42(b) of the Internal Revenue Code, *relating to*
18 *applicable percentage*, shall be modified as follows:

19 (1) 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, *relating to temporary minimum credit rate for nonfederally*
27 *subsidized new buildings*, 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 (2) In the case of any qualified low-income building that receives
32 an allocation after 1989 and that is a new building that is federally
33 subsidized or that is an existing building that is “at risk of
34 conversion,” the term “applicable percentage” means the following:

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

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

1 (3) 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, *relating to low-income housing*
25 *credit*.

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

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

34 (D) The property satisfies the requirements of Section 42(e) of
35 the Internal Revenue Code, *relating to rehabilitation expenditures*
36 *treated as separate new building*, regarding rehabilitation
37 expenditures, except that the provisions of Section
38 42(e)(3)(A)(ii)(I) shall not apply.

39 (d) The term “qualified low-income housing project” as defined
40 in Section 42(c)(2) of the Internal Revenue Code, *relating to*

1 *qualified low-income building*, is modified by adding the following
2 requirements:

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

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

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

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

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

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, *relating to in*
31 *general*.

32 (e) The provisions of Section 42(f) of the Internal Revenue
33 Code, *relating to definition and special rules relating to credit*
34 *period*, shall be modified as follows:

35 (1) The term “credit period” as defined in Section 42(f)(1) of
36 the Internal Revenue Code, *relating to credit period defined*, is
37 modified by substituting “four taxable years” for “10 taxable
38 years.”

39 (2) The special rule for the first taxable year of the credit period
40 under Section 42(f)(2) of the Internal Revenue Code, *relating to*

1 *special rule for first year of credit period*, shall not apply to the
2 tax credit under this section.

3 (3) Section 42(f)(3) of the Internal Revenue Code, *relating to*
4 *determination of applicable percentage with respect to increases*
5 *in qualified basis after first year of credit period*, is modified to
6 read:

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

16 (f) The provisions of Section 42(h) of the Internal Revenue
17 Code, *relating to limitation on aggregate credit allowable with*
18 *respect to projects located in a state*, shall be modified as follows:

19 (1) Section 42(h)(2) of the Internal Revenue Code, *relating to*
20 *allocated credit amount to apply to all taxable years ending during*
21 *or after credit allocation year*, shall not be applicable and instead
22 the following provisions shall be applicable:

23 The total amount for the four-year credit period of the housing
24 credit dollars allocated in a calendar year to any building shall
25 reduce the aggregate housing credit dollar amount of the California
26 Tax Credit Allocation Committee for the calendar year in which
27 the allocation is made.

28 (2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I),
29 (7), and (8) of Section 42(h) of the Internal Revenue Code, *relating*
30 *to limitation on aggregate credit allowable with respect to projects*
31 *located in a state*, shall not be applicable.

32 (g) The aggregate housing credit dollar amount that may be
33 allocated annually by the California Tax Credit Allocation
34 Committee pursuant to this section, Section 17058, and Section
35 23610.5 shall be an amount equal to the sum of all the following:

36 (1) (A) Seventy million dollars (\$70,000,000) for the 2001
37 calendar year, and, ~~for the 2002 calendar year and each calendar~~
38 ~~year thereafter~~, *calendar years 2002 to 2014, inclusive*, seventy
39 million dollars (\$70,000,000) increased by the percentage, if any,
40 by which the Consumer Price Index for the preceding calendar

1 year exceeds the Consumer Price Index for the 2001 calendar year.
2 For the purposes of this paragraph, the term “Consumer Price
3 Index” means the last Consumer Price Index for All Urban
4 Consumers published by the federal Department of Labor.

5 *(B) Three hundred seventy million dollars (\$370,000,000) for*
6 *the 2015 calendar year, and, for the 2016 calendar year and each*
7 *calendar year thereafter, three hundred seventy million dollars*
8 *(\$370,000,000) increased by the percentage, if any, by which the*
9 *Consumer Price Index for the preceding calendar year exceeds*
10 *the Consumer Price Index for the 2015 calendar year. For the*
11 *purposes of this paragraph, the term “Consumer Price Index”*
12 *means the last Consumer Price Index for All Urban Consumers*
13 *published by the federal Department of Labor.*

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

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

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

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

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

37 (i) (1) Section 42(j) of the Internal Revenue Code, *relating to*
38 *recapture of credit*, shall not be applicable and the provisions in
39 paragraph (2) shall be substituted in its place.

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

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

10 (B) A requirement that the agreement be recorded in the official
11 records of the county in which the qualified low-income housing
12 project is located.

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

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

22 (E) A provision incorporating the requirements of Section 42
23 of the Internal Revenue Code, *relating to low-income housing*
24 *credit*, as modified by this section.

25 (F) A requirement that the housing sponsor notify the California
26 Tax Credit Allocation Committee or its designee and the local
27 agency that can enforce the regulatory agreement if there is a
28 determination by the Internal Revenue Service that the project is
29 not in compliance with Section 42(g) of the Internal Revenue Code,
30 *relating to qualified low-income housing project*.

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

37 (H) The remedies available in the event of a default under the
38 regulatory agreement that is not cured within a reasonable cure
39 period, include, but are not limited to, allowing any of the parties
40 designated to enforce the regulatory agreement to collect all rents

1 with respect to the project; taking possession of the project and
2 operating the project in accordance with the regulatory agreement
3 until the enforcer determines the housing sponsor is in a position
4 to operate the project in accordance with the regulatory agreement;
5 applying to any court for specific performance; securing the
6 appointment of a receiver to operate the project; or any other relief
7 as may be appropriate.

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

20 (2) The committee shall adopt a qualified allocation plan, as
21 provided in Section 42(m)(1) of the Internal Revenue Code,
22 *relating to plans for allocation of credit among projects*. In
23 adopting this plan, the committee shall comply with the provisions
24 of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue
25 Code, *relating to qualified allocation plan and relating to certain*
26 *selection criteria must be used, respectively*.

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

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

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

39 (ii) The project's proposed financing, including tax credit
40 proceeds, shall be sufficient to complete the project and that the

1 proposed operating income shall be adequate to operate the project
2 for the extended use period.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (k) Section 42(l) of the Internal Revenue Code, *relating to*
13 *certifications and other reports to secretary*, shall be modified as
14 follows:

15 The term "secretary" shall be replaced by the term "California
16 Franchise Tax Board."

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

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

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

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

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

31 17058. (a) (1) There shall be allowed as a credit against the
32 "~~net tax~~" ~~(as tax,~~ as defined in Section ~~17039~~) 17039, a state
33 low-income housing *tax* credit in an amount equal to the amount
34 determined in subdivision (c), computed in accordance with ~~the~~
35 ~~provisions of~~ Section 42 of the Internal Revenue Code, *relating*
36 *to low-income housing credit*, 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, *relating to low-income housing credit*.

20 (ii) It qualifies for a credit under Section 42(h)(4)(B) of the
21 Internal Revenue Code, *relating to special rule where 50 percent*
22 *or more of building is financed with tax-exempt bonds subject to*
23 *volume cap*.

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

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

1 of the Internal Revenue Code, *relating to determination of*
2 *distributive share.*

3 (ii) To the extent the allocation of the credit to a partner under
4 this section lacks substantial economic effect, any loss or deduction
5 otherwise allowable under this part that is attributable to the sale
6 or other disposition of that partner’s partnership interest made prior
7 to the expiration of the federal credit shall not be allowed in the
8 taxable year in which the sale or other disposition occurs, but shall
9 instead be deferred until and treated as if it occurred in the first
10 taxable year immediately following the taxable year in which the
11 federal credit period expires for the project described in clause (i).

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

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

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

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

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

28 (D) All elections made by the taxpayer pursuant to Section 42
29 of the Internal Revenue Code, *relating to low-income housing*
30 *credit*, shall apply to this section.

31 (E) (i) Except as described in clause (ii), for buildings located
32 in designated difficult development areas (DDAs) or qualified
33 census tracts (QCTs), as defined in Section 42(d)(5)(B) of the
34 Internal Revenue Code, *relating to increase in credit for buildings*
35 *in high-cost areas*, credits may be allocated under this section in
36 the amounts prescribed in subdivision (c), provided that the amount
37 of credit allocated under Section 42 of the Internal Revenue Code,
38 *relating to low-income housing credit*, is computed on 100 percent
39 of the qualified basis of the building.

1 (ii) Notwithstanding clause (i), the California Tax Credit
2 Allocation Committee may allocate the credit for buildings located
3 in DDAs or QCTs that are restricted to having 50 percent of its
4 occupants be special needs households, as defined in the California
5 Code of Regulations by the California Tax Credit Allocation
6 Committee, even if the taxpayer receives federal credits pursuant
7 to Section 42(d)(5)(B) of the Internal Revenue Code, *relating to*
8 *increase in credit for buildings in high-cost areas*, provided that
9 the credit allowed under this section shall not exceed 30 percent
10 of the eligible basis of the building.

11 (G) (i) The California Tax Credit Allocation Committee may
12 allocate a credit under this section in exchange for a credit allocated
13 pursuant to Section 42(d)(5)(B) of the Internal Revenue Code,
14 *relating to increase in credit for buildings in high-cost areas*, in
15 amounts up to 30 percent of the eligible basis of a building if the
16 credits allowed under Section 42 of the Internal Revenue Code,
17 *relating to low-income nursing credit*, are reduced by an equivalent
18 amount.

19 (ii) An equivalent amount shall be determined by the California
20 Tax Credit Allocation Committee based upon the relative amount
21 required to produce an equivalent state tax credit to the taxpayer.

22 (c) Section 42(b) of the Internal Revenue Code, *relating to*
23 *applicable percentage*, shall be modified as follows:

24 (1) In the case of any qualified low-income building placed in
25 service by the housing sponsor during 1987, the term “applicable
26 percentage” means 9 percent for each of the first three years and
27 3 percent for the fourth year for new buildings (whether or not the
28 building is federally subsidized) and for existing buildings.

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

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

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

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

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

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

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

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

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

21 (ii) The Below-Market-Interest-Rate Program pursuant to
22 Section 221(d)(3) of the National Housing Act, Sections
23 1715l(d)(3) and (5) of Title 12 of the United States Code.

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

26 (iv) Programs for rent supplement assistance pursuant to Section
27 101 of the Housing and Urban Development Act of 1965, Section
28 1701s of Title 12 of the United States Code, as amended.

29 (v) Programs pursuant to Section 515 of the Housing Act of
30 1949, Section 1485 of Title 42 of the United States Code, as
31 amended.

32 (vi) The low-income housing credit program set forth in Section
33 42 of the Internal Revenue Code, *relating to low-income housing*
34 *credit*.

35 (B) The restrictions on rent and income levels will terminate or
36 ~~the federal~~ *federally* insured mortgage on the property is eligible
37 for prepayment any time within five years before or after the date
38 of application to the California Tax Credit Allocation Committee.

39 (C) The entity acquiring the property enters into a regulatory
40 agreement that requires the property to be operated in accordance

1 with the requirements of this section for a period equal to the
2 greater of 55 years or the life of the property.

3 (D) The property satisfies the requirements of Section 42(e) of
4 the Internal Revenue Code, *relating to rehabilitation expenditures*
5 *treated as separate new building*, regarding rehabilitation
6 expenditures, except that the provisions of Section
7 42(e)(3)(A)(ii)(I) shall not apply.

8 (d) The term “qualified low-income housing project” as defined
9 in Section 42(c)(2) of the Internal Revenue Code, *relating to*
10 *qualified low-income building*, is modified by adding the following
11 requirements:

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

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

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

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

21 (B) The amount of the cashflow from those units in the building
22 that are not low-income units. For purposes of computing cashflow
23 under this subparagraph, operating costs shall be allocated to the
24 low-income units using the “floor space fraction,” as defined in
25 Section 42 of the Internal Revenue Code, *relating to low-income*
26 *housing credit*.

27 (C) Any amount allowed to be distributed under subparagraph
28 (A) that is not available for distribution during the first five years
29 of the compliance period may be accumulated and distributed any
30 time during the first 15 years of the compliance period but not
31 thereafter.

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

35 (3) The housing sponsor shall apply any cash available for
36 distribution in excess of the amount eligible to be distributed under
37 paragraph (1) to reduce the rent on rent-restricted units or to
38 increase the number of rent-restricted units subject to the tests of
39 Section 42(g)(1) of the Internal Revenue Code, *relating to in*
40 *general*.

1 (e) The provisions of Section 42(f) of the Internal Revenue
2 Code, *relating to definition and special rules relating to credit*
3 *period*, shall be modified as follows:

4 (1) The term “credit period” as defined in Section 42(f)(1) of
5 the Internal Revenue Code, *relating to credit period defined*, is
6 modified by substituting “four taxable years” for “10 taxable
7 years.”

8 (2) The special rule for the first taxable year of the credit period
9 under Section 42(f)(2) of the Internal Revenue Code, *relating to*
10 *special rule for first year of credit period*, shall not apply to the
11 tax credit under this section.

12 (3) Section 42(f)(3) of the Internal Revenue Code, *relating to*
13 *determination of applicable percentage with respect to increases*
14 *in qualified basis after first year of credit period*, is modified to
15 read:

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

25 (f) The provisions of Section 42(h) of the Internal Revenue
26 Code, *relating to limitation on aggregate credit allowable with*
27 *respect to projects located in a state*, shall be modified as follows:

28 (1) Section 42(h)(2) of the Internal Revenue Code, *relating to*
29 *allocated credit amount to apply to all taxable years ending during*
30 *or after credit allocation year*, shall not be applicable and instead
31 the following provisions shall be applicable:

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

37 (2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I),
38 (7), and (8) of Section 42(h) of the Internal Revenue Code, *relating*
39 *to limitation on aggregate credit allowable with respect to projects*
40 *located in a state*, shall not be applicable to this section. *applicable.*

1 (g) The aggregate housing credit dollar amount that may be
2 allocated annually by the California Tax Credit Allocation
3 Committee pursuant to this section, Section 12206, and Section
4 23610.5 shall be an amount equal to the sum of all the following:

5 (1) (A) Seventy million dollars (\$70,000,000) for the 2001
6 calendar year, and, for ~~the 2002 calendar year and each calendar~~
7 ~~year thereafter, calendar years 2002 to 2014, inclusive, seventy~~
8 million dollars (\$70,000,000) increased by the percentage, if any,
9 by which the Consumer Price Index for the preceding calendar
10 year exceeds the Consumer Price Index for the 2001 calendar year.
11 For the purposes of this paragraph, the term “Consumer Price
12 Index” means the last Consumer Price Index for All Urban
13 Consumers published by the federal Department of Labor.

14 (B) *Three hundred seventy million dollars (\$370,000,000) for*
15 *the 2015 calendar year, and, for the 2016 calendar year and each*
16 *calendar year thereafter, three hundred seventy million dollars*
17 *(\$370,000,000) increased by the percentage, if any, by which the*
18 *Consumer Price Index for the preceding calendar year exceeds*
19 *the Consumer Price Index for the 2015 calendar year. For the*
20 *purposes of this paragraph, the term “Consumer Price Index”*
21 *means the last Consumer Price Index for All Urban Consumers*
22 *published by the federal Department of Labor.*

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

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

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

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

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

6 (i) Section 42(j) of the Internal Revenue Code, *relating to*
7 *recapture of credit*, shall not be applicable and the following
8 requirements of this section shall be set forth in a regulatory
9 agreement between the California Tax Credit Allocation Committee
10 and the housing sponsor, ~~which~~ *and this* agreement shall be
11 subordinated, when required, to any lien or encumbrance of any
12 banks or other institutional lenders to the project. The regulatory
13 agreement entered into pursuant to subdivision (f) of Section
14 50199.14 of the Health and Safety Code shall apply, provided that
15 the agreement includes all of the following provisions:

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

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

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

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

29 (5) A provision incorporating the requirements of Section 42
30 of the Internal Revenue Code, *relating to low-income housing*
31 *credit*, 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 *relating to qualified low-income housing project*.

37 (7) A requirement that the housing sponsor, as security for the
38 performance of the housing sponsor’s obligations under the
39 regulatory agreement, assign the housing sponsor’s interest in rents
40 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) The remedies available in the event of a default under the
4 regulatory agreement that is not cured within a reasonable cure
5 period, include, but are not limited to, allowing any of the parties
6 designated to enforce the regulatory agreement to collect all rents
7 with respect to the project; taking possession of the project and
8 operating the project in accordance with the regulatory agreement
9 until the enforcer determines the housing sponsor is in a position
10 to operate the project in accordance with the regulatory agreement;
11 applying to any court for specific performance; securing the
12 appointment of a receiver to operate the project; or any other relief
13 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 the 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,
28 *relating to plans for allocation of credit among projects*. In
29 adopting this plan, the committee shall comply with the provisions
30 of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue
31 Code, *relating to qualified allocation plan and relating to certain*
32 *selection criteria must be used, respectively*.

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

38 (A) All housing sponsors, as defined by paragraph (3) of
39 subdivision (a), shall demonstrate at the time the application is

1 filed with the committee that the project meets the following
2 threshold requirements:

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

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

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

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

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

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

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

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

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

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

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

- 1 (i) Projects serving large families in which a substantial number,
2 as defined by the committee, of all residential units ~~is comprised~~
3 ~~of~~ *are* low-income units with three and more bedrooms.
- 4 (ii) Projects providing single-room occupancy units serving
5 very low income tenants.
- 6 (iii) Existing projects that are “at risk of conversion,” as defined
7 by paragraph (4) of subdivision (c).
- 8 (iv) Projects for which a public agency provides direct or indirect
9 long-term financial support for at least 15 percent of the total
10 project development costs or projects for which the owner’s equity
11 constitutes at least 30 percent of the total project development
12 costs.
- 13 (v) Projects that provide tenant amenities not generally available
14 to residents of low-income housing projects.
- 15 (4) For purposes of allocating credits pursuant to this section,
16 the committee shall not give preference to any project by virtue
17 of the date of submission of its application.
- 18 (k) Section 42(l) of the Internal Revenue Code, *relating to*
19 *certifications and other reports to secretary*, shall be modified as
20 follows:
- 21 The term “secretary” shall be replaced by the term “California
22 Franchise Tax Board.”
- 23 (l) In the case where the credit allowed under this section
24 exceeds the net tax, the excess ~~credit~~ may be carried over to reduce
25 the net tax in the following year, and succeeding taxable years, if
26 necessary, until the credit has been exhausted.
- 27 (m) A project that received an allocation of a 1989 federal
28 housing credit dollar amount shall be eligible to receive an
29 allocation of a 1990 state housing credit dollar amount, subject to
30 all of the following conditions:
- 31 (1) The project was not placed in service prior to 1990.
- 32 (2) To the extent the amendments made to this section by the
33 Statutes of 1990 conflict with any provisions existing in this section
34 prior to those amendments, the prior provisions of law shall prevail.
- 35 (3) Notwithstanding paragraph (2), a project applying for an
36 allocation under this subdivision shall be subject to the
37 requirements of paragraph (3) of subdivision (j).
- 38 (n) The credit period with respect to an allocation of credit in
39 1989 by the California Tax Credit Allocation Committee of which

1 any amount is attributable to unallocated credit from 1987 or 1988
2 shall not begin until after December 31, 1989.

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

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

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

10 This section shall remain in effect on and after December 1,
11 1990, for as long as Section 42 of the Internal Revenue Code,
12 relating to low-income housing ~~credits~~, *credit*, remains in effect.

13 (r) The amendments to this section made by ~~the act adding this~~
14 ~~subdivision~~ *Chapter 1222 of the Statutes of 1993* shall apply only
15 to taxable years beginning on or after January 1, 1994.

16 *SEC. 3. Section 23610.5 of the Revenue and Taxation Code is*
17 *amended to read:*

18 23610.5. (a) (1) There shall be allowed as a credit against the
19 ~~“tax”~~ ~~(as “tax,”~~ *as defined by Section 23036)* 23036, a state
20 low-income housing tax credit in an amount equal to the amount
21 determined in subdivision (c), computed in accordance with Section
22 42 of the Internal Revenue Code of 1986, *relating to low-income*
23 *housing credit*, except as otherwise provided in this section.

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

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

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

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

39 (i) Except for projects to provide farmworker housing, as defined
40 in subdivision (h) of Section 50199.7 of the Health and Safety

1 Code, that are allocated credits solely under the set-aside described
2 in subdivision (c) of Section 50199.20 of the Health and Safety
3 Code, the project's housing sponsor has been allocated by the
4 California Tax Credit Allocation Committee a credit for federal
5 income tax purposes under Section 42 of the Internal Revenue
6 Code, *relating to low-income housing credit*.

7 (ii) It qualifies for a credit under Section 42(h)(4)(B) of the
8 Internal Revenue Code, *relating to special rule where 50 percent*
9 *or more of building is financed with tax-exempt bonds subject to*
10 *volume cap*.

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, *relating to low-income housing*
15 *credit*. The committee may require a fee if the application for the
16 credit under this section is submitted in a calendar year after the
17 year the application is submitted for 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, *relating to determination of*
28 *distributive share*.

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

38 (iii) This subparagraph shall not apply to a project that receives
39 a preliminary reservation of state low-income housing tax credits
40 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, *relating to low-income housing*
16 *credit*, shall apply to this section.

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

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

36 (G) (i) The California Tax Credit Allocation Committee may
37 allocate a credit under this section in exchange for a credit allocated
38 pursuant to Section 42(d)(5)(B) of the Internal Revenue Code,
39 *relating to increase in credit for buildings in high-cost areas*, 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, *relating to*
7 *applicable percentage*, shall be modified as follows:

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

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

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

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

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

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

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

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

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

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

6 (ii) The Below-Market-Interest-Rate Program pursuant to
7 Section 221(d)(3) of the National Housing Act, Sections
8 1715l(d)(3) and (5) of Title 12 of the United States Code.

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

11 (iv) Programs for rent supplement assistance pursuant to Section
12 101 of the Housing and Urban Development Act of 1965, Section
13 1701s of Title 12 of the United States Code, as amended.

14 (v) Programs pursuant to Section 515 of the Housing Act of
15 1949, Section 1485 of Title 42 of the United States Code, as
16 amended.

17 (vi) The low-income housing credit program set forth in Section
18 42 of the Internal Revenue Code, *relating to low-income housing*
19 *credit*.

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

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

28 (D) The property satisfies the requirements of Section 42(e) of
29 the Internal Revenue Code, *relating to rehabilitation expenditures*
30 *treated as separate new building*, regarding rehabilitation
31 expenditures, except that the provisions of Section
32 42(e)(3)(A)(ii)(I) shall not apply.

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

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

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

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

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

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

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

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

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

26 (e) The provisions of Section 42(f) of the Internal Revenue
27 Code, *relating to definition and special rules relating to credit*
28 *period*, shall be modified as follows:

29 (1) The term “credit period” as defined in Section 42(f)(1) of
30 the Internal Revenue Code, *relating to credit period defined*, is
31 modified by substituting “four taxable years” for “10 taxable
32 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, *relating to*
35 *special rule for first year of credit period*, shall not apply to the
36 tax credit under this section.

37 (3) Section 42(f)(3) of the Internal Revenue Code, *relating to*
38 *determination of applicable percentage with respect to increases*
39 *in qualified basis after first year of credit period*, is modified to
40 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, *relating to limitation on aggregate credit allowable with*
12 *respect to projects located in a state*, shall be modified as follows:

13 (1) Section 42(h)(2) of the Internal Revenue Code, *relating to*
14 *allocated credit amount to apply to all taxable years ending during*
15 *or after credit allocation year*, shall not be applicable and instead
16 the following provisions shall be applicable:

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

22 (2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I),
23 (7), and (8) of Section 42(h) of the Internal Revenue Code, *relating*
24 *to limitation on aggregate credit allowable with respect to projects*
25 *located in a state*, shall not be applicable.

26 (g) The aggregate housing credit dollar amount that may be
27 allocated annually by the California Tax Credit Allocation
28 Committee pursuant to this section, Section 12206, and Section
29 17058 shall be an amount equal to the sum of all the following:

30 (1) (A) Seventy million dollars (\$70,000,000) for the 2001
31 calendar year, and, ~~for the 2002 calendar year and each calendar~~
32 ~~year thereafter~~, *calendar years 2002 to 2014, inclusive*, seventy
33 million dollars (\$70,000,000) increased by the percentage, if any,
34 by which the Consumer Price Index for the preceding calendar
35 year exceeds the Consumer Price Index for the 2001 calendar year.
36 For the purposes of this paragraph, the term “Consumer Price
37 Index” means the last Consumer Price Index for All Urban
38 Consumers published by the federal Department of Labor.

39 (B) *Three hundred seventy million dollars (\$370,000,000) for*
40 *the 2015 calendar year, and, for the 2016 calendar year and each*

1 *calendar year thereafter, three hundred seventy million dollars*
2 *(\$370,000,000) increased by the percentage, if any, by which the*
3 *Consumer Price Index for the preceding calendar year exceeds*
4 *the Consumer Price Index for the 2015 calendar year. For the*
5 *purposes of this paragraph, the term “Consumer Price Index”*
6 *means the last Consumer Price Index for All Urban Consumers*
7 *published by the federal Department of Labor.*

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

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

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

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

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

31 (i) Section 42(j) of the Internal Revenue Code, *relating to*
32 *recapture of credit*, shall not be applicable and the following shall
33 be substituted in its place:

34 The requirements of this section shall be set forth in a regulatory
35 agreement between the California Tax Credit Allocation Committee
36 and the housing sponsor, and this agreement shall be subordinated,
37 when required, to any lien or encumbrance of any banks or other
38 institutional lenders to the project. The regulatory agreement
39 entered into pursuant to subdivision (f) of Section 50199.14 of the

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

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

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

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

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

16 (5) A provision incorporating the requirements of Section 42
17 of the Internal Revenue Code, *relating to low-income housing*
18 *credit*, as modified by this section.

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

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

30 ~~A provision that the~~ *The* remedies available in the event of
31 a default under the regulatory agreement that is not cured within
32 a reasonable cure period include, but are not limited to, allowing
33 any of the parties designated to enforce the regulatory agreement
34 to collect all rents with respect to the project; taking possession of
35 the project and operating the project in accordance with the
36 regulatory agreement until the enforcer determines the housing
37 sponsor is in a position to operate the project in accordance with
38 the regulatory agreement; applying to any court for specific
39 performance; securing the appointment of a receiver to operate
40 the project; or 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 maximum
5 percentage of federal and state low-income housing tax credit
6 ceiling that may be allocated by the committee in that period, and
7 the approximate date on which allocations shall be made. If the
8 enactment of federal or state law, the adoption of rules or
9 regulations, or other similar events prevent the use of two allocation
10 periods, the committee may reduce the number of periods and
11 adjust the filing deadlines, maximum percentage of credit allocated,
12 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,
15 *relating to plans for allocation of credit among projects*. In
16 adopting this plan, the committee shall comply with the provisions
17 of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue
18 Code, *relating to qualified allocation plan and relating to certain*
19 *selection criteria must be used, respectively*.

20 (3) Notwithstanding Section 42(m) of the Internal Revenue
21 Code, *relating to responsibilities of housing credit agencies*, the
22 California Tax Credit Allocation Committee shall allocate housing
23 credits in accordance with the qualified allocation plan and
24 regulations, which shall include the following provisions:

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

29 (i) The housing sponsor shall demonstrate ~~that~~ there is a need
30 for low-income housing in the community or region for which it
31 is proposed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (k) Section 42(l) of the Internal Revenue Code, *relating to*
15 *certifications and other reports to secretary*, shall be modified as
16 follows:

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

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

23 (m) A project that received an allocation of a 1989 federal
24 housing credit dollar amount shall be eligible to receive an
25 allocation of a 1990 state housing credit dollar amount, subject to
26 all of the following conditions:

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

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

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

34 (n) The credit period with respect to an allocation of credit in
35 1989 by the California Tax Credit Allocation Committee of which
36 any amount is attributable to unallocated credit from 1987 or 1988
37 shall not begin until after December 31, 1989.

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

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

3 (q) (1) A corporation may elect to assign any portion of any
4 credit allowed under this section to one or more affiliated
5 corporations for each taxable year in which the credit is allowed.
6 For purposes of this subdivision, “affiliated corporation” has the
7 meaning provided in subdivision (b) of Section 25110, as that
8 section was amended by Chapter 881 of the Statutes of 1993, as
9 of the last day of the taxable year in which the credit is allowed,
10 except that “100 percent” is substituted for “more than 50 percent”
11 wherever it appears in the section, as that section was amended by
12 Chapter 881 of the Statutes of 1993, and “voting common stock”
13 is substituted for “voting stock” wherever it appears in the section,
14 as that section was amended by Chapter 881 of the Statutes of
15 1993.

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

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

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

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

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

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

30 (s) The amendments to this section made by ~~the act adding this~~
31 ~~subdivision~~ *Chapter 1222 of the Statutes of 1993* shall apply only
32 to taxable years beginning on or after January 1, 1994, except that
33 paragraph (1) of subdivision (q), as amended, shall apply to taxable
34 years beginning on or after January 1, 1993.

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

37 ~~SECTION 1. (a) The Legislature finds and declares all of the~~
38 ~~following:~~

1 ~~(1) The preservation and rehabilitation of existing affordable~~
2 ~~housing stock initially created through public investment is a~~
3 ~~critical strategy to address the affordable housing crisis in our state.~~

4 ~~(2) It is particularly important that older single room occupancy~~
5 ~~(SRO), special needs, and other buildings with deeply~~
6 ~~income-targeted rents be preserved and refurbished for low-income~~
7 ~~tenants and the public investment protected.~~

8 ~~(3) However, currently, most properties that are being~~
9 ~~recapitalized and resyndicated through the California Tax Credit~~
10 ~~Allocation Committee system for substantial rehabilitation tend~~
11 ~~to have higher rents and shallower income targeting because they~~
12 ~~appraise well and generate significant acquisition credits.~~

13 ~~(4) Unfortunately, the deeply targeted mostly SRO, special~~
14 ~~needs, and rural projects that very much need to capitalize are~~
15 ~~largely shut out of this opportunity precisely because they have~~
16 ~~agreed to very deep income-targeting which excludes them from~~
17 ~~acquisition credits.~~

18 ~~(b) Therefore, it is the intent of the Legislature to create a new~~
19 ~~source of investment and a pipeline for these older but very~~
20 ~~valuable public assets, which are often in the greatest need of~~
21 ~~rehabilitation.~~

22 ~~SEC. 2. Section 17059 is added to the Revenue and Taxation~~
23 ~~Code, to read:~~

24 ~~17059. (a) For each taxable year beginning on or after January~~
25 ~~1, 2015, there shall be allowed as a credit against the “net tax,” as~~
26 ~~defined in Section 17039, a very low-income and extremely~~
27 ~~low-income housing credit in an amount computed in accordance~~
28 ~~with Section 42 of the Internal Revenue Code, except as otherwise~~
29 ~~provided in this section.~~

30 ~~(b) For the purposes of this section, the following definitions~~
31 ~~shall apply:~~

32 ~~(1) “Taxpayer” means the sole owner in the case of an~~
33 ~~individual, the partners in the case of a partnership, and the~~
34 ~~shareholders in the case of an “S” corporation.~~

35 ~~(2) “Housing sponsor” means the sole owner in the case of an~~
36 ~~individual, the partnership in the case of a partnership, and the “S”~~
37 ~~corporation in the case of an “S” corporation.~~

38 ~~(3) “Very low-income” has the same meaning as in Section~~
39 ~~50053 of the Health and Safety Code.~~

- 1 ~~(4) “Extremely low-income” has the same meaning as in Section~~
2 ~~50053 of the Health and Safety Code.~~
- 3 ~~(5) “SRO” means single room occupancy.~~
- 4 ~~(6) “Rural area resident” means a resident of a rural area as~~
5 ~~defined in Section 50199.21 of the Health and Safety Code.~~
- 6 ~~(7) “Committee” means the California Tax Credit Allocation~~
7 ~~Committee.~~
- 8 ~~(e) (1) The amount of the credit allocated to any housing~~
9 ~~sponsor shall be authorized by the committee, or any successor~~
10 ~~thereof, based on a project’s need for the credit in accordance with~~
11 ~~paragraph (2) of subdivision (e).~~
- 12 ~~(A) The very low-income or extremely low-income housing~~
13 ~~project shall be located in California.~~
- 14 ~~(B) Nothing in this section shall be construed to require a~~
15 ~~housing sponsor to have been previously or currently allocated a~~
16 ~~credit for federal income tax purposes under Section 42 of the~~
17 ~~Internal Revenue Code or for state income tax purposes under~~
18 ~~Section 17058.~~
- 19 ~~(2) (A) The committee shall certify to the housing sponsor the~~
20 ~~amount of tax credit under this section allocated to the housing~~
21 ~~sponsor for each credit period.~~
- 22 ~~(B) In the case of a partnership or an “S” corporation, the~~
23 ~~housing sponsor shall provide a copy of the committee certification~~
24 ~~to the taxpayer.~~
- 25 ~~(C) The taxpayer shall, upon request, provide a copy of the~~
26 ~~certification to the Franchise Tax Board.~~
- 27 ~~(d) The aggregate housing credit dollar amount that may be~~
28 ~~allocated annually by the committee pursuant to this section and~~
29 ~~Section 23610.6 shall be an amount equal to the sum of all of the~~
30 ~~following:~~
- 31 ~~(1) Forty million dollars (\$40,000,000).~~
- 32 ~~(2) The unused allocation credit amount, if any, for the preceding~~
33 ~~fiscal year.~~
- 34 ~~(3) The amount of housing credits returned in the calendar year.~~
- 35 ~~(e) (1) Subject to subdivision (c), the committee shall allocate~~
36 ~~the housing credit on a regular basis consisting of two or more~~
37 ~~periods in each calendar year during which applications may be~~
38 ~~filed and considered. The committee shall establish application~~
39 ~~filing deadlines, the maximum amounts of state very low-income~~
40 ~~and extremely low-income housing tax credits that may be~~

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

7 (2) The committee shall, on a first-come-first-served basis,
8 allocate the very low-income and extremely low-income housing
9 credit in accordance with the following provisions:

10 (A) All housing sponsors shall demonstrate at the time the
11 application is filed with the committee that the project meets the
12 following threshold requirements:

13 (B) The housing sponsor shall demonstrate that the project will
14 be used exclusively for the restructuring, including the acquisition
15 and substantial rehabilitation, of buildings at least 20 years old
16 and that currently serve very low-income, extremely low-income,
17 SRO, or rural area residents. No new construction shall be eligible
18 for a credit under this section.

19 (C) The housing sponsor shall demonstrate that acquisition
20 credits that would be received as part of the restructuring through
21 the existing state credit program described in Section 17058 would
22 be insufficient to complete substantial rehabilitation due to a low
23 appraised fair market value.

24 (D) The housing sponsor shall demonstrate that the project is
25 currently subsidized, but may or may not currently be “at risk” for
26 conversion to market rate.

27 (E) There is no requirement that the project previously received
28 federal or state tax credits when originally constructed.

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

33 (g) A deduction otherwise allowed under this part for any
34 amount paid or incurred by the qualified taxpayer upon which the
35 credit is based shall be reduced by the amount of the credit allowed
36 by this section.

37 (h) Credit under this section shall be allowed only for credits
38 claimed on a timely filed original return of the qualified taxpayer.

1 (i) (1) ~~The committee and the Franchise Tax Board may adopt~~
2 ~~regulations, rules, guidelines, or procedures necessary or~~
3 ~~appropriate to carry out the purposes of this section.~~

4 (2) ~~The Administrative Procedure Act (Chapter 3.5~~
5 ~~(commencing with Section 11340) of Part 1 of Division 3 of Title~~
6 ~~2 of the Government Code) shall apply to any regulation, rule,~~
7 ~~guideline, or procedure adopted pursuant to this section.~~

8 ~~SEC. 3. Section 23610.6 is added to the Revenue and Taxation~~
9 ~~Code, to read:~~

10 23610.6. (a) ~~For each taxable year beginning on or after~~
11 ~~January 1, 2015, there shall be allowed as a credit against the “tax,”~~
12 ~~as defined in Section 23036, a very low-income and extremely~~
13 ~~low-income housing credit in an amount computed in accordance~~
14 ~~with Section 42 of the Internal Revenue Code, except as otherwise~~
15 ~~provided in this section.~~

16 (b) ~~For the purposes of this section, the following definitions~~
17 ~~shall apply:~~

18 (1) ~~“Taxpayer” means the sole owner in the case of a “C”~~
19 ~~corporation, the partners in the case of a partnership, and the~~
20 ~~shareholders in the case of an “S” corporation.~~

21 (2) ~~“Housing sponsor” means the sole owner in the case of a~~
22 ~~“C” corporation, the partnership in the case of a partnership, and~~
23 ~~the “S” corporation in the case of an “S” corporation.~~

24 (3) ~~“Very low-income” has the same meaning as in Section~~
25 ~~50053 of the Health and Safety Code.~~

26 (4) ~~“Extremely low-income” has the same meaning as in Section~~
27 ~~50053 of the Health and Safety Code.~~

28 (5) ~~“SRO” means single room occupancy.~~

29 (6) ~~“Rural area resident” means a resident of a rural area as~~
30 ~~defined in Section 50199.21 of the Health and Safety Code.~~

31 (7) ~~“Committee” means the California Tax Credit Allocation~~
32 ~~Committee.~~

33 (e) (1) ~~The amount of the credit allocated to any housing~~
34 ~~sponsor shall be authorized by the committee, or any successor~~
35 ~~thereof, based on a project’s need for the credit in accordance with~~
36 ~~paragraph (2) of subdivision (e).~~

37 (A) ~~The very low-income or extremely low-income housing~~
38 ~~project shall be located in California.~~

39 (B) ~~Nothing in this section shall be construed to require a~~
40 ~~housing sponsor to have been previously or currently allocated a~~

1 credit for federal income tax purposes under Section 42 of the
2 Internal Revenue Code or for state income tax purposes under
3 Section 23610.5.

4 (2) (A) The committee shall certify to the housing sponsor the
5 amount of tax credit under this section allocated to the housing
6 sponsor for each credit period.

7 (B) In the case of a partnership or an “S” corporation, the
8 housing sponsor shall provide a copy of the committee certification
9 to the taxpayer.

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

12 (d) (1) The aggregate housing credit dollar amount that may
13 be allocated annually by the committee pursuant to this section
14 and Section 17059 shall be an amount equal to the sum of all of
15 the following:

16 (1) Forty million dollars (\$40,000,000).

17 (2) The unused allocation credit amount, if any, for the preceding
18 fiscal year.

19 (3) The amount of housing credits returned in the calendar year.

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

32 (2) The committee shall, on a first-come-first-served basis,
33 allocate the very low-income and extremely low-income housing
34 credit in accordance with the following provisions:

35 (A) All housing sponsors shall demonstrate at the time the
36 application is filed with the committee that the project meets the
37 following threshold requirements:

38 (B) The housing sponsor shall demonstrate that the project will
39 be used exclusively for the restructuring, including the acquisition
40 and substantial rehabilitation, of buildings at least 20 years old

1 and that currently serve very low-income, extremely low-income,
2 SRO, or rural area residents. No new construction shall be eligible
3 for a credit under this section.

4 (C) The housing sponsor shall demonstrate that acquisition
5 credits that would be received as part of the restructuring through
6 the existing state credit program described in Section 23610.5
7 would be insufficient to complete substantial rehabilitation due to
8 a low appraised fair market value.

9 (D) The housing sponsor shall demonstrate that the project is
10 currently subsidized, but may or may not currently be “at risk” for
11 conversion to market rate.

12 (E) There is no requirement that the project previously received
13 federal or state tax credits when originally constructed.

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

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

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

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

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

32 (g) In the case where the credit allowed under this section
33 exceeds the “tax,” the excess may be carried over to reduce the
34 “tax” in the following year, and succeeding taxable years, if
35 necessary, until the credit is exhausted.

36 (h) A deduction otherwise allowed under this part for any
37 amount paid or incurred by the qualified taxpayer upon which the
38 credit is based shall be reduced by the amount of the credit allowed
39 by this section.

- 1 (i) ~~Credit under this section shall be allowed only for credits~~
- 2 ~~claimed on a timely filed original return of the qualified taxpayer.~~
- 3 (j) (1) ~~The committee and the Franchise Tax Board may adopt~~
- 4 ~~regulations, rules, guidelines, or procedures necessary or~~
- 5 ~~appropriate to carry out the purposes of this section.~~
- 6 (2) ~~The Administrative Procedure Act (Chapter 3.5~~
- 7 ~~(commencing with Section 11340) of Part 1 of Division 3 of Title~~
- 8 ~~2 of the Government Code) shall apply to any regulation, rule,~~
- 9 ~~guideline, or procedure adopted pursuant to this section.~~
- 10 SEC. 4. ~~In order to comply with the requirements of Section~~
- 11 ~~41 of the Revenue and Taxation Code, it is the intent of the~~
- 12 ~~Legislature that the California Tax Credit Allocation Committee~~
- 13 ~~provide the information required by that section to the Legislature.~~
- 14 SEC. 5. ~~This act provides for a tax levy within the meaning of~~
- 15 ~~Article IV of the Constitution and shall go into immediate effect.~~