

AMENDED IN ASSEMBLY APRIL 6, 2015

AMENDED IN ASSEMBLY MARCH 2, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 35**

---

---

**Introduced by Assembly Members Chiu and Atkins**  
*(Principal coauthor: Assembly Member Wilk)*  
*(Coauthor: Assembly Member Steinorth)*

December 1, 2014

---

---

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. 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, *personal* income, and corporation *income* tax credit amounts among low-income housing projects based on federal law. *Existing law, in modified conformity to federal income tax law, allows the credit based upon the applicable percentage, as defined, of the qualified basis of each qualified low-income building.* 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. *The bill,*

*under the insurance taxation law, the Personal Income Tax Law, and the Corporation Tax Law, would modify the definition of applicable percentage relating to qualified low-income buildings that meet specified criteria.*

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

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

1 SECTION 1. Section 12206 of the Revenue and Taxation Code  
2 is amended to read:

3 12206. (a) (1) There shall be allowed as a credit against the  
4 “tax,” as described by Section 12201, a state low-income housing  
5 tax credit in an amount equal to the amount determined in  
6 subdivision (c), computed in accordance with Section 42 of the  
7 Internal Revenue Code, ~~relating to low-income housing credit,~~  
8 *Code* 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  
11 a partnership, *members in the case of a limited liability company,*  
12 and the shareholders in the case of an “S” corporation.

13 (3) “Housing sponsor,” for purposes of this section, means the  
14 sole owner in the case of a “C” corporation, the partnership in the  
15 case of a partnership, *the limited liability company in the case of*  
16 *a limited liability company,* and the “S” corporation in the case of  
17 an “S” corporation.

18 (4) “*Extremely low-income*” has the same meaning as in Section  
19 50053 of the Health and Safety Code.

20 (5) “*Rural area*” means a rural area as defined in Section  
21 50199.21 of the Health and Safety Code.

22 (6) “*Special needs housing*” has the meaning as in paragraph  
23 (4) of subdivision (g) of Section 10325 of Title 4 of the California  
24 Code of Regulations.

25 (7) “*SRO*” means single room occupancy.

26 (8) “*Very low-income*” has the same meaning as in Section  
27 50053 of the Health and Safety Code.”

28 (b) (1) The amount of the credit allocated to any housing  
29 sponsor shall be authorized by the California Tax Credit Allocation  
30 Committee, or any successor thereof, based on a project’s need

1 for the credit for economic feasibility in accordance with the  
2 requirements of this section.

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

9 (i) The project's housing sponsor has been allocated by the  
10 California Tax Credit Allocation Committee a credit for federal  
11 income tax purposes under Section 42 of the Internal Revenue  
12 ~~Code, relating to low-income housing credit Code.~~

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

17 (B) The California Tax Credit Allocation Committee shall not  
18 require fees for the credit under this section in addition to those  
19 fees required for applications for the tax credit pursuant to Section  
20 42 of the Internal Revenue ~~Code, relating to low-income housing~~  
21 ~~credit Code.~~ The committee may require a fee if the application  
22 for the credit under this section is submitted in a calendar year  
23 after the year the application is submitted for the federal tax credit.

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

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

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

4 (2) (A) The California Tax Credit Allocation Committee shall  
5 certify to the housing sponsor the amount of tax credit under this  
6 section allocated to the housing 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 California Tax Credit  
9 Allocation Committee certification to the taxpayer.

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

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

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

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

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

38 (G)

39 (F) (i) The California Tax Credit Allocation Committee may  
40 allocate a credit under this section in exchange for a credit allocated

1 pursuant to Section 42(d)(5)(B) of the Internal Revenue Code,  
2 relating to increase in credit for buildings in high-cost areas, Code  
3 in amounts up to 30 percent of the eligible basis of a building if  
4 the credits allowed under Section 42 of the Internal Revenue Code,  
5 relating to low-income nursing credit, Code are reduced by an  
6 equivalent amount.

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

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

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

15 (A) For each of the first three years, the percentage prescribed  
16 by the Secretary of the Treasury for new buildings that are not  
17 federally subsidized for the taxable year, determined in accordance  
18 with the requirements of Section 42(b)(2) 42(b)(1) of the Internal  
19 Revenue Code, relating to temporary minimum credit rate for  
20 nonfederally subsidized new buildings, Code in lieu of the  
21 percentage prescribed in Section 42(b)(1)(A) of the Internal  
22 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 (2) 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 (3) 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 federal 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 (2) *In the case of any qualified low-income building that (i) is*  
34 *a new building, (ii) not located in designated difficult development*  
35 *areas (DDAs) or qualified census tracts (QCTs), as defined in*  
36 *Section 45(d)(5)(B) of the Internal Revenue Code, and (iii) is*  
37 *federally subsidized, the term “applicable percentage” means for*  
38 *the first three years, 15 percent of the qualified basis of the*  
39 *building, and for the fourth year, 5 percent of the qualified basis*  
40 *of the building.*

1 (3) In the case of any qualified low-income building that is (i)  
2 an existing building, (ii) not located in designated difficult  
3 development areas (DDAs) or qualified census tracts (QCTs), as  
4 defined in Section 45(d)(5)(B) of the Internal Revenue Code, and  
5 (iii) is federally subsidized, the term applicable percentage means  
6 the following:

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

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

12 (4) In the case of any qualified low-income building that is (i)  
13 a new or an existing building, (ii) located in designated difficult  
14 development areas (DDAs) or qualified census tracts (QCTs) as  
15 defined in Section 42(d)(5)(B) of the Internal Revenue Code, and  
16 (iii) federally subsidized, the California Tax Credit Allocation  
17 Committee shall determine the amount of credit to be allocated  
18 under subparagraph (F) of paragraph (2) of subdivision (b)  
19 required to produce an equivalent state tax credit to the taxpayer,  
20 as produced in paragraph (2), taking into account the basis boost  
21 provided under Section 42(d)(5)(B) of the Internal Revenue Code.

22 (5) In the case of any qualified low-income building that meets  
23 all of the requirements of subparagraphs (A) through (D),  
24 inclusive, the term “applicable percentage” means 30 percent for  
25 each of the first three years and 5 percent for the fourth year.

26 (A) The qualified low-income building is at least 15 years old.

27 (B) The qualified low-income building is a SRO, special needs  
28 housing, is in a rural area, or serves households with very  
29 low-income or extremely low-income residents.

30 (C) The qualified low-income building is serving households of  
31 very low-income or extremely low-income provided that the  
32 average income at time admission is not more than 45 percent of  
33 the median gross income, as determined under Section 42 of the  
34 Internal Revenue Code, adjusted by household size.

35 (D) The qualified low-income building would have insufficient  
36 credits under paragraphs (1) and (2) to complete substantial  
37 rehabilitation due to a low appraised value.

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

1 ~~qualified low-income building~~, *Code* is modified by adding the  
2 following 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 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 that shall include the amount of the capital  
8 contributions actually paid to the housing sponsor and shall not  
9 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 Code~~.

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

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~~, *Code* 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~~, *Code*  
37 is 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~~; *Code* shall not apply to  
2 the 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~~; *Code* is modified  
6 to 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~~ *year* in which the  
15 increase 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~~; *Code* shall be modified as  
19 follows:

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

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

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

33 (g) The aggregate housing credit dollar amount that may be  
34 allocated annually by the California Tax Credit Allocation  
35 Committee pursuant to this section, Section 17058, and Section  
36 23610.5 shall be an amount equal to the sum of all the following:

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

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

6 ~~(B) Three hundred seventy million dollars (\$370,000,000)~~ *An*  
7 *additional three hundred million dollars (\$300,000,000)* for the  
8 2015 calendar year, and, for the 2016 calendar year and each  
9 calendar year thereafter, ~~three hundred seventy million dollars~~  
10 ~~(\$370,000,000)~~ *three hundred million dollars (\$300,000,000)*  
11 increased by the percentage, if any, by which the Consumer Price  
12 Index for the preceding calendar year exceeds the Consumer Price  
13 Index for the 2015 calendar year. For the purposes of this  
14 paragraph, the term “Consumer Price Index” means the last  
15 Consumer Price Index for All Urban Consumers published by the  
16 federal Department of Labor. *A housing sponsor receiving an*  
17 *allocation under paragraph (1) of subdivision (c) shall not be*  
18 *eligible for receipt of the housing credit allocated from the*  
19 *increased amount under this subparagraph. A housing sponsor*  
20 *receiving an allocation under paragraph (1) of subdivision (c)*  
21 *shall remain eligible for receipt of the housing credit allocated*  
22 *from the credit ceiling amount under subparagraph (A).*

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~~, *Code*  
3 is 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) (1) Section 42(j) of the Internal Revenue Code, ~~relating to~~  
7 ~~recapture of credit~~, *Code* shall not be applicable and the provisions  
8 in paragraph (2) shall be substituted in its place.

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

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

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

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

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

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

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

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

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

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

30 (2) The committee shall adopt a qualified allocation plan, as  
31 provided in Section 42(m)(1) of the Internal Revenue Code, relating  
32 to plans for allocation of credit among projects *Code*. In adopting  
33 this plan, the committee shall comply with the provisions of  
34 Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue  
35 Code, relating to qualified allocation plan and relating to certain  
36 selection criteria must be used, respectively.

37 (3) Notwithstanding Section 42(m) of the Internal Revenue  
38 Code, relating to responsibilities of housing credit agencies, *Code*  
39 the California Tax Credit Allocation Committee shall allocate

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (iii) (I) Existing projects that are “at risk of ~~conversion,~~” as  
10 ~~defined by paragraph (3) of subdivision (e):~~ *conversion.*”

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

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

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

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

26 (Ic) *Section 236 of the National Housing Act, Section 1715z-1*  
27 *of Title 12 of the United States Code.*

28 (Id) *Programs for rent supplement assistance pursuant to*  
29 *Section 18 101 of the Housing and Urban Development Act of*  
30 *1965, Section 1701s of Title 12 of the United States Code, as*  
31 *amended.*

32 (Ie) *Programs pursuant to Section 515 of the Housing Act of*  
33 *1949, Section 1485 of Title 42 of the United States Code, as*  
34 *amended.*

35 (If) *The low-income housing credit program set forth in Section*  
36 *42 of the Internal Revenue Code.*

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

1 (ic) *The entity acquiring the property enters into a regulatory*  
2 *agreement that requires the property to be operated in accordance*  
3 *with the requirements of this section for a period equal to the*  
4 *greater of 55 years or the life of the property.*

5 (id) *The property satisfies the requirements of Section 42(e) of*  
6 *the Internal Revenue Code, regarding rehabilitation expenditures*  
7 *except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not*  
8 *apply.*

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

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

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

20 (k) Section 42(l) of the Internal Revenue Code, relating to  
21 certifications and other reports to secretary, Code shall be modified  
22 as follows:

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

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

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

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

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

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

39 17058. (a) (1) There shall be allowed as a credit against the  
40 "net tax," as defined in Section 17039, a state low-income housing

1 tax credit in an amount equal to the amount determined in  
2 subdivision (c), computed in accordance with Section 42 of the  
3 Internal Revenue Code, relating to low-income housing credit,  
4 Code except as otherwise provided in this section.

5 (2) “Taxpayer” for purposes of this section means the sole owner  
6 in the case of an individual, the partners in the case of a partnership,  
7 *members in the case of a limited liability company*, and the  
8 shareholders in the case of an “S” corporation.

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

14 (4) “*Extremely low-income*” has the same meaning as in Section  
15 50053 of the Health and Safety Code.

16 (5) “*Rural area*” means a rural area as defined in Section  
17 50199.21 of the Health and Safety Code.

18 (6) “*Special needs housing*” has the meaning as in paragraph  
19 (4) of subdivision (g) of Section 10325 of Title 4 of the California  
20 Code of Regulations.

21 (7) “*SRO*” means single room occupancy.

22 (8) “*Very low-income*” has the same meaning as in Section  
23 50053 of the Health and Safety Code.”

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

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

31 (i) Except for projects to provide farmworker housing, as defined  
32 in subdivision (h) of Section 50199.7 of the Health and Safety  
33 Code, that are allocated credits solely under the set-aside described  
34 in subdivision (c) of Section 50199.20 of the Health and Safety  
35 Code, the project’s housing sponsor has been allocated by the  
36 California Tax Credit Allocation Committee a credit for federal  
37 income tax purposes under Section 42 of the Internal Revenue  
38 Code, relating to low-income housing credit Code.

39 (ii) It qualifies for a credit under Section 42(h)(4)(B) of the  
40 Internal Revenue Code, relating to special rule where 50 percent



1 ~~or more of building is financed with tax-exempt bonds subject to~~  
2 ~~volume cap Code.~~

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

10 (C) (i) For a project that receives a preliminary reservation of  
11 the state low-income housing tax credit, allowed pursuant to  
12 subdivision (a), on or after January 1, 2009, and before January 1,  
13 2016, the credit shall be allocated to the partners of a partnership  
14 owning the project in accordance with the partnership agreement,  
15 regardless of how the federal low-income housing tax credit with  
16 respect to the project is allocated to the partners, or whether the  
17 allocation of the credit under the terms of the agreement has  
18 substantial economic effect, within the meaning of Section 704(b)  
19 of the Internal Revenue ~~Code, relating to determination of~~  
20 ~~distributive share Code.~~

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

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

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

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

1 (B) In the case of a partnership, *limited liability company*, or  
2 an “S” corporation, the housing sponsor shall provide a copy of  
3 the California Tax Credit Allocation Committee certification to  
4 the taxpayer.

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

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

10 (E) ~~(i) Except as described in clause (ii), for buildings located~~  
11 ~~in designated difficult development areas (DDAs) or qualified~~  
12 ~~census tracts (QCTs), as defined in Section 42(d)(5)(B) of the~~  
13 ~~Internal Revenue Code, relating to increase in credit for buildings~~  
14 ~~in high-cost areas, credits may be allocated under this section in~~  
15 ~~the amounts prescribed in subdivision (e), provided that the amount~~  
16 ~~of credit allocated under Section 42 of the Internal Revenue Code,~~  
17 ~~relating to low-income housing credit, is computed on 100 percent~~  
18 ~~of the qualified basis of the building.~~

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

29 (G)

30 (E) (i) The California Tax Credit Allocation Committee may  
31 allocate a credit under this section in exchange for a credit allocated  
32 pursuant to Section 42(d)(5)(B) of the Internal Revenue Code,  
33 ~~relating to increase in credit for buildings in high-cost areas~~, *Code*  
34 in amounts up to 30 percent of the eligible basis of a building if  
35 the credits allowed under Section 42 of the Internal Revenue Code,  
36 ~~relating to low-income nursing credit~~, *Code* are reduced by an  
37 equivalent amount.

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

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

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

8 (2)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (2) *In the case of any qualified low-income building that (i) is*  
31 *a new building, (ii) not located in designated difficult development*  
32 *areas (DDAs) or qualified census tracts (QCTs), as defined in*  
33 *Section 45(d)(5)(B) of the Internal Revenue Code, and (iii) is*  
34 *federally subsidized, the term “applicable percentage” means for*  
35 *the first three years, 15 percent of the qualified basis of the*  
36 *building, and for the fourth year, 5 percent of the qualified basis*  
37 *of the building.*

38 (3) *In the case of any qualified low-income building that is (i)*  
39 *an existing building, (ii) not located in designated difficult*  
40 *development areas (DDAs) or qualified census tracts (QCTs), as*

1 *defined in Section 45(d)(5)(B) of the Internal Revenue Code, and*  
2 *(iii) is federally subsidized, the term applicable percentage means*  
3 *the following:*

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

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

9 *(4) In the case of any qualified low-income building that is (i)*  
10 *a new or an existing building, (ii) located in designated difficult*  
11 *development areas (DDAs) or qualified census tracts (QCTs) as*  
12 *defined in Section 42(d)(5)(B) of the Internal Revenue Code, and*  
13 *(iii) federally subsidized, the California Tax Credit Allocation*  
14 *Committee shall determine the amount of credit to be allocated*  
15 *under subparagraph (E) of paragraph (2) of subdivision (b)*  
16 *required to produce an equivalent state tax credit to the taxpayer,*  
17 *as produced in paragraph (2), taking into account the basis boost*  
18 *provided under Section 42(d)(5)(B) of the Internal Revenue Code.*

19 *(5) In the case of any qualified low-income building that meets*  
20 *all of the requirements of subparagraphs (A) through (D),*  
21 *inclusive, the term “applicable percentage” means 30 percent for*  
22 *each of the first three years and 5 percent for the fourth year.*

23 *(A) The qualified low-income building is at least 15 years old.*

24 *(B) The qualified low-income building is a SRO, special needs*  
25 *housing, is in a rural area, or serves households with very*  
26 *low-income or extremely low-income residents.*

27 *(C) The qualified low-income building is serving households of*  
28 *very low-income or extremely low-income provided that the*  
29 *average income at time admission is not more than 45 percent of*  
30 *the median gross income, as determined under Section 42 of the*  
31 *Internal Revenue Code, adjusted by household size.*

32 *(D) The qualified low-income building would have insufficient*  
33 *credits under paragraphs (1) and (2) to complete substantial*  
34 *rehabilitation due to a low appraised value.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (g) The aggregate housing credit dollar amount that may be  
32 allocated annually by the California Tax Credit Allocation  
33 Committee pursuant to this section, Section 12206, and Section  
34 23610.5 shall be an amount equal to the sum of all the following:

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

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

4 (B) ~~Three hundred seventy million dollars (\$370,000,000)~~ *An*  
5 *additional three hundred million dollars (\$300,000,000)* for the  
6 2015 calendar year, and, for the 2016 calendar year and each  
7 calendar year thereafter, ~~three hundred seventy million dollars~~  
8 ~~(\$370,000,000)~~ *three hundred million dollars (\$300,000,000)*  
9 increased by the percentage, if any, by which the Consumer Price  
10 Index for the preceding calendar year exceeds the Consumer Price  
11 Index for the 2015 calendar year. For the purposes of this  
12 paragraph, the term “Consumer Price Index” means the last  
13 Consumer Price Index for All Urban Consumers published by the  
14 federal Department of Labor. *A housing sponsor receiving an*  
15 *allocation under paragraph (1) of subdivision (c) shall not be*  
16 *eligible for receipt of the housing credit allocated from the*  
17 *increased amount under this subparagraph. A housing sponsor*  
18 *receiving an allocation under paragraph (1) of subdivision (c)*  
19 *shall remain eligible for receipt of the housing credit allocated*  
20 *from the credit ceiling amount under subparagraph (A).*

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

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

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

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

39 (h) The term “compliance period” as defined in Section 42(i)(1)  
40 of the Internal Revenue Code, ~~relating to compliance period, Code~~



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

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

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

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

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

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

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

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

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

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

3 (8) 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, relating  
28 to plans for allocation of credit among projects Code. In adopting  
29 this plan, the committee shall comply with the provisions of  
30 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, Code  
35 the California Tax Credit Allocation Committee shall allocate  
36 housing credits in accordance with the qualified allocation plan  
37 and 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 are low-income  
3 units with three and more bedrooms.
- 4 (ii) Projects providing single-room occupancy units serving  
5 very low income tenants.
- 6 (iii) (I) Existing projects that are “at risk of ~~conversion,~~” as  
7 ~~defined by paragraph (4) of subdivision (c).~~ *conversion.*”
- 8 (II) For purposes of this section, the term “at risk of  
9 conversion,” with respect to an existing property means a property  
10 that satisfies all of the following criteria:
- 11 (ia) The property is a multifamily rental housing development  
12 in which at least 50 percent of the units receive governmental  
13 assistance pursuant to any of the following:
- 14 (Ia) New construction, substantial rehabilitation, moderate  
15 rehabilitation, property disposition, and loan management set-aside  
16 programs, or any other program providing project-based  
17 assistance pursuant to Section 8 of the United States Housing Act  
18 of 1937, Section 1437f of Title 42 of the United States Code, as  
19 amended.
- 20 (Ib) The Below-Market-Interest-Rate Program pursuant to  
21 Section 221(d)(3) of the National Housing Act, Sections 1715l(d)(3)  
22 and (5) of Title 12 of the United States Code.
- 23 (Ic) Section 236 of the National Housing Act, Section 1715z-1  
24 of Title 12 of the United States Code.
- 25 (Id) Programs for rent supplement assistance pursuant to  
26 Section 18 101 of the Housing and Urban Development Act of  
27 1965, Section 1701s of Title 12 of the United States Code, as  
28 amended.
- 29 (Ie) 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 (If) The low-income housing credit program set forth in Section  
33 42 of the Internal Revenue Code.
- 34 (ib) The restrictions on rent and income levels will terminate  
35 or the federal insured mortgage on the property is eligible for  
36 prepayment any time within five years before or after the date of  
37 application to the California Tax Credit Allocation Committee.
- 38 (ic) The entity acquiring the property enters into a regulatory  
39 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 (id) The property satisfies the requirements of Section 42(e) of  
4 the Internal Revenue Code, regarding rehabilitation expenditures  
5 except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not  
6 apply.

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

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

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

17 (k) Section 42(l) of the Internal Revenue Code, relating to  
18 certifications and other reports to secretary, Code shall be modified  
19 as follows:

20 The term "secretary" shall be replaced by the term "California  
21 Franchise Tax Board."

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

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

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

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

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

37 (n) The credit period with respect to an allocation of credit in  
38 1989 by the California Tax Credit Allocation Committee of which  
39 any amount is attributable to unallocated credit from 1987 or 1988  
40 shall not begin until after December 31, 1989.

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

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

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

8 ~~This~~

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

12 ~~(r)~~

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

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

18 23610.5. (a) (1) There shall be allowed as a credit against the  
19 “tax,” as defined by Section 23036, a state low-income housing  
20 tax credit in an amount equal to the amount determined in  
21 subdivision (c), computed in accordance with Section 42 of the  
22 Internal Revenue Code of 1986, ~~relating to low-income housing~~  
23 ~~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, *members in the case of a limited liability company*,  
27 and the shareholders in the case of an “S” 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, *the limited liability company in the case of*  
31 *a limited liability company*, and the “S” corporation in the case of  
32 an “S” corporation.

33 (4) “*Extremely low-income*” has the same meaning as in Section  
34 50053 of the Health and Safety Code.

35 (5) “*Rural area*” means a rural area as defined in Section  
36 50199.21 of the Health and Safety Code.

37 (6) “*Special needs housing*” has the meaning as in paragraph  
38 (4) of subdivision (g) of Section 10325 of Title 4 of the California  
39 Code of Regulations.

40 (7) “*SRO*” means single room occupancy.

1 (8) “*Very low-income*” has the same meaning as in Section  
2 50053 of the Health and Safety Code.”

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

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

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

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

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

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

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

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

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

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

21 (B) In the case of a partnership, *limited liability company*, or  
22 an "S" corporation, the housing sponsor shall provide a copy of  
23 the California Tax Credit Allocation Committee certification to  
24 the taxpayer.

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

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

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

39 (ii) Notwithstanding clause (i), the California Tax Credit  
40 Allocation Committee may allocate the credit for buildings located



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

9 (G)

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

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

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

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

27 (2)

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

31 (A) For each of the first three years, the percentage prescribed  
32 by the Secretary of the Treasury for new buildings that are not  
33 federally subsidized for the taxable year, determined in accordance  
34 with the requirements of Section 42(b)(2) 42(b)(1) of the Internal  
35 Revenue Code, relating to temporary minimum credit rate for  
36 nonfederally subsidized new buildings, Code in lieu of the  
37 percentage prescribed in Section 42(b)(1)(A) of the Internal  
38 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 federally insured mortgage on the property is eligible for~~  
37    ~~prepayment any time within five years before or after the date of~~  
38    ~~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 *(2) In the case of any qualified low-income building that (i) is*  
9 *a new building, (ii) not located in designated difficult development*  
10 *areas (DDAs) or qualified census tracts (QCTs), as defined in*  
11 *Section 45(d)(5)(B) of the Internal Revenue Code, and (iii) is*  
12 *federally subsidized, the term “applicable percentage” means for*  
13 *the first three years, 15 percent of the qualified basis of the*  
14 *building, and for the fourth year, 5 percent of the qualified basis*  
15 *of the building.*

16 *(3) In the case of any qualified low-income building that is (i)*  
17 *an existing building, (ii) not located in designated difficult*  
18 *development areas (DDAs) or qualified census tracts (QCTs), as*  
19 *defined in Section 45(d)(5)(B) of the Internal Revenue Code, and*  
20 *(iii) is federally subsidized, the term applicable percentage means*  
21 *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*  
24 *federally subsidized for the taxable year.*

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

27 *(4) In the case of any qualified low-income building that is (i)*  
28 *a new or an existing building, (ii) located in designated difficult*  
29 *development areas (DDAs) or qualified census tracts (QCTs) as*  
30 *defined in Section 42(d)(5)(B) of the Internal Revenue Code, and*  
31 *(iii) federally subsidized, the California Tax Credit Allocation*  
32 *Committee shall determine the amount of credit to be allocated*  
33 *under subparagraph (E) of paragraph (2) of subdivision (b)*  
34 *required to produce an equivalent state tax credit to the taxpayer,*  
35 *as produced in paragraph (2), taking into account the basis boost*  
36 *provided under Section 42(d)(5)(B) of the Internal Revenue Code.*

37 *(5) In the case of any qualified low-income building that meets*  
38 *all of the requirements of subparagraphs (A) through (D),*  
39 *inclusive, the term “applicable percentage” means 30 percent for*  
40 *each of the first three years and 5 percent for the fourth year.*

1 (A) *The qualified low-income building is at least 15 years old.*

2 (B) *The qualified low-income building is a SRO, special needs*  
3 *housing, is in a rural area, or serves households with very*  
4 *low-income or extremely low-income residents.*

5 (C) *The qualified low-income building is serving households of*  
6 *very low-income or extremely low-income provided that the*  
7 *average income at time admission is not more than 45 percent of*  
8 *the median gross income, as determined under Section 42 of the*  
9 *Internal Revenue Code, adjusted by household size.*

10 (D) *The qualified low-income building would have insufficient*  
11 *credits under paragraphs (1) and (2) to complete substantial*  
12 *rehabilitation due to a low appraised value.*

13 (d) The term “qualified low-income housing project” as defined  
14 in Section 42(c)(2) of the Internal Revenue ~~Code, relating to~~  
15 ~~qualified low-income building, Code~~ is modified by adding the  
16 following requirements:

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

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

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

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

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

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

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

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

7 (e) The provisions of Section 42(f) of the Internal Revenue  
8 ~~Code, relating to definition and special rules relating to credit~~  
9 ~~period, Code~~ shall be modified as follows:

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

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

18 (3) Section 42(f)(3) of the Internal Revenue ~~Code, relating to~~  
19 ~~determination of applicable percentage with respect to increases~~  
20 ~~in qualified basis after first year of credit period, Code~~ is modified  
21 to read:

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

31 (f) The provisions of Section 42(h) of the Internal Revenue  
32 ~~Code, relating to limitation on aggregate credit allowable with~~  
33 ~~respect to projects located in a state, Code~~ shall be modified as  
34 follows:

35 (1) Section 42(h)(2) of the Internal Revenue ~~Code, relating to~~  
36 ~~allocated credit amount to apply to all taxable years ending during~~  
37 ~~or after credit allocation year, Code~~ shall not be applicable and  
38 instead the following provisions shall be applicable:

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

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

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

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

12 (1) (A) Seventy million dollars (\$70,000,000) for the 2001  
 13 calendar year, and, for calendar years 2002 to 2014, inclusive, *the*  
 14 *2002 calendar year and each calendar year thereafter*, seventy  
 15 million dollars (\$70,000,000) increased by the percentage, if any,  
 16 by which the Consumer Price Index for the preceding calendar  
 17 year exceeds the Consumer Price Index for the 2001 calendar year.  
 18 For the purposes of this paragraph, the term “Consumer Price  
 19 Index” means the last Consumer Price Index for All Urban  
 20 Consumers published by the federal Department of Labor.

21 (B) ~~Three hundred seventy million dollars (\$370,000,000)~~ *An*  
 22 *additional three hundred million dollars (\$300,000,000)* for the  
 23 2015 calendar year, and, for the 2016 calendar year and each  
 24 calendar year thereafter, ~~three hundred seventy million dollars~~  
 25 ~~(\$370,000,000)~~ *three hundred million dollars (\$300,000,000)*  
 26 increased by the percentage, if any, by which the Consumer Price  
 27 Index for the preceding calendar year exceeds the Consumer Price  
 28 Index for the 2015 calendar year. For the purposes of this  
 29 paragraph, the term “Consumer Price Index” means the last  
 30 Consumer Price Index for All Urban Consumers published by the  
 31 federal Department of Labor. *A housing sponsor receiving an*  
 32 *allocation under paragraph (1) of subdivision (c) shall not be*  
 33 *eligible for receipt of the housing credit allocated from the*  
 34 *increased amount under this subparagraph. A housing sponsor*  
 35 *receiving an allocation under paragraph (1) of subdivision (c)*  
 36 *shall remain eligible for receipt of the housing credit allocated*  
 37 *from the credit ceiling amount under subparagraph (A).*

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

1 (3) The amount of housing credit ceiling returned in the calendar  
2 year. For purposes of this paragraph, the amount of housing credit  
3 dollar amount returned in the calendar year equals the housing  
4 credit dollar amount previously allocated to any project that does  
5 not become a qualified low-income housing project within the  
6 period required by this section or to any project with respect to  
7 which an allocation is canceled by mutual consent of the California  
8 Tax Credit Allocation Committee and the allocation recipient.

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

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

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

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

25 The requirements of this section shall be set forth in a regulatory  
26 agreement between the California Tax Credit Allocation Committee  
27 and the housing sponsor, and ~~this~~ *the regulatory* agreement shall  
28 be subordinated, when required, to any lien or encumbrance of  
29 any banks or other institutional lenders to the project. The  
30 regulatory agreement entered into pursuant to subdivision (f) of  
31 Section 50199.14 of the Health and Safety Code shall apply,  
32 provided that the agreement includes all of the following  
33 provisions:

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

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

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

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

7 (5) A provision incorporating the requirements of Section 42  
8 of the Internal Revenue ~~Code, relating to low-income housing~~  
9 ~~credit, Code~~ as modified by this section.

10 (6) A requirement that the housing sponsor notify the California  
11 Tax Credit Allocation Committee or its designee if there is a  
12 determination by the Internal Revenue Service that the project is  
13 not in compliance with Section 42(g) of the Internal Revenue ~~Code,~~  
14 ~~relating to qualified low-income housing project Code.~~

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

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

32 (j) (1) The committee shall allocate the housing credit on a  
33 regular basis consisting of two or more periods in each calendar  
34 year during which applications may be filed and considered. The  
35 committee shall establish application filing deadlines, the maximum  
36 percentage of federal and state low-income housing tax credit  
37 ceiling that may be allocated by the committee in that period, and  
38 the approximate date on which allocations shall be made. If the  
39 enactment of federal or state law, the adoption of rules or  
40 regulations, or other similar events prevent the use of two allocation



1 periods, the committee may reduce the number of periods and  
2 adjust the filing deadlines, maximum percentage of credit allocated,  
3 and allocation dates.

4 (2) The committee shall adopt a qualified allocation plan, as  
5 provided in Section 42(m)(1) of the Internal Revenue ~~Code, relating~~  
6 ~~to plans for allocation of credit among projects~~ Code. In adopting  
7 this plan, the committee shall comply with the provisions of  
8 Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue  
9 Code, ~~relating to qualified allocation plan and relating to certain~~  
10 ~~selection criteria must be used~~, respectively.

11 (3) Notwithstanding Section 42(m) of the Internal Revenue  
12 ~~Code, relating to responsibilities of housing credit agencies~~, Code  
13 the California Tax Credit Allocation Committee shall allocate  
14 housing credits in accordance with the qualified allocation plan  
15 and regulations, which shall include the following provisions:

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

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

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

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

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

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

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

37 (vii) The housing sponsor shall demonstrate the amount of tax  
38 credit that is necessary for the financial feasibility of the project  
39 and its viability as a qualified low-income housing project  
40 throughout the extended use period, taking into account operating

1 expenses, a supportable debt service, reserves, funds set aside for  
2 rental subsidies and required equity, and a development fee that  
3 does not exceed a specified percentage of the eligible basis of the  
4 project prior to inclusion of the development fee in the eligible  
5 basis, as determined by the committee.

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

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

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

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

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

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

21 (iii) (I) Existing projects that are “at risk of ~~conversion,~~” as  
22 defined by ~~paragraph (4) of subdivision (e):~~ *conversion.*”

23 (II) *For purposes of this section, the term “at risk of*  
24 *conversion,” with respect to an existing property means a property*  
25 *that satisfies all of the following criteria:*

26 (ia) *The property is a multifamily rental housing development*  
27 *in which at least 50 percent of the units receive governmental*  
28 *assistance pursuant to any of the following:*

29 (Ia) *New construction, substantial rehabilitation, moderate*  
30 *rehabilitation, property disposition, and loan management set-aside*  
31 *programs, or any other program providing project-based*  
32 *assistance pursuant to Section 8 of the United States Housing Act*  
33 *of 1937, Section 1437f of Title 42 of the United States Code, as*  
34 *amended.*

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

38 (Ic) *Section 236 of the National Housing Act, Section 1715z-1*  
39 *of Title 12 of the United States Code.*

1     *(Id) Programs for rent supplement assistance pursuant to*  
2     *Section 18 101 of the Housing and Urban Development Act of*  
3     *1965, Section 1701s of Title 12 of the United States Code, as*  
4     *amended.*

5     *(Ie) Programs pursuant to Section 515 of the Housing Act of*  
6     *1949, Section 1485 of Title 42 of the United States Code, as*  
7     *amended.*

8     *(If) The low-income housing credit program set forth in Section*  
9     *42 of the Internal Revenue Code.*

10    *(ib) The restrictions on rent and income levels will terminate*  
11    *or the federal insured mortgage on the property is eligible for*  
12    *prepayment any time within five years before or after the date of*  
13    *application to the California Tax Credit Allocation Committee.*

14    *(ic) The entity acquiring the property enters into a regulatory*  
15    *agreement that requires the property to be operated in accordance*  
16    *with the requirements of this section for a period equal to the*  
17    *greater of 55 years or the life of the property.*

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

22    *(iv) Projects for which a public agency provides direct or indirect*  
23    *long-term financial support for at least 15 percent of the total*  
24    *project development costs or projects for which the owner's equity*  
25    *constitutes at least 30 percent of the total project development*  
26    *costs.*

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

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

33    (5) Not less than 20 percent of the low-income housing tax  
34 credits available annually under this section, Section 12206, and  
35 Section 17058 shall be set aside for allocation to rural areas as  
36 defined in Section 50199.21 of the Health and Safety Code. Any  
37 amount of credit set aside for rural areas remaining on or after  
38 October 31 of any calendar year shall be available for allocation  
39 to any eligible project. No amount of credit set aside for rural areas

1 shall be considered available for any eligible project so long as  
2 there are eligible rural applications pending on October 31.

3 (k) Section 42(l) of the Internal Revenue Code, relating to  
4 certifications and other reports to secretary, Code shall be modified  
5 as follows:

6 The term “secretary” shall be replaced by the term “California  
7 Franchise Tax Board.”

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

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

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

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

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

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

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

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

32 (q) (1) A corporation may elect to assign any portion of any  
33 credit allowed under this section to one or more affiliated  
34 corporations for each taxable year in which the credit is allowed.  
35 For purposes of this subdivision, “affiliated corporation” has the  
36 meaning provided in subdivision (b) of Section 25110, as that  
37 section was amended by Chapter 881 of the Statutes of 1993, as  
38 of the last day of the taxable year in which the credit is allowed,  
39 except that “100 percent” is substituted for “more than 50 percent”  
40 wherever it appears in the section, as that section was amended by

1 Chapter 881 of the Statutes of 1993, and “voting common stock”  
2 is substituted for “voting stock” wherever it appears in the section,  
3 as that section was amended by Chapter 881 of the Statutes of  
4 1993.

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

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

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

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

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

16 ~~This~~

17 (s) *This* section shall remain in effect on and after December  
18 1, 1990, for as long as Section 42 of the Internal Revenue Code,  
19 relating to low-income housing credit, remains in effect.

20 ~~(s)~~

21 (t) The amendments to this section made by Chapter 1222 of  
22 the Statutes of 1993 shall apply only to taxable years beginning  
23 on or after January 1, 1994, except that paragraph (1) of subdivision  
24 (q), as amended, shall apply to taxable years beginning on or after  
25 January 1, 1993.

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

O