

AMENDED IN SENATE SEPTEMBER 3, 2015

AMENDED IN ASSEMBLY MAY 20, 2015

AMENDED IN ASSEMBLY APRIL 16, 2015

AMENDED IN ASSEMBLY APRIL 6, 2015

AMENDED IN ASSEMBLY MARCH 2, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

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**ASSEMBLY BILL**

**No. 35**

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

December 1, 2014

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

LEGISLATIVE COUNSEL'S DIGEST

AB 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 *in* 2016, 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. *The bill would require the Treasurer to submit a report to the Legislature on or before January 1, 2020, regarding the increase in use, if any, of the credit on and after the effective date of this bill.*

*This bill would incorporate additional changes to Sections 12206, 17058, and 23610.5 of the Revenue and Taxation Code proposed by SB 377 that would become operative if this bill and SB 377 are chaptered and this bill is chaptered last.*

This bill would take effect immediately as a tax levy.

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

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

- 1 SECTION 1. Section 12206 of the Revenue and Taxation Code
- 2 is amended to read:
- 3 12206. (a) (1) There shall be allowed as a credit against the
- 4 “tax,” as described by Section 12201, a state low-income housing
- 5 tax credit in an amount equal to the amount determined in
- 6 subdivision (c), computed in accordance with Section 42 of the
- 7 Internal Revenue Code except as otherwise provided in this section.
- 8 (2) “Taxpayer,” for purposes of this section, means the sole
- 9 owner in the case of a “C” corporation, the partners in the case of
- 10 a partnership, members in the case of a limited liability company,
- 11 and the shareholders in the case of an “S” corporation.
- 12 (3) “Housing sponsor,” for purposes of this section, means the
- 13 sole owner in the case of a “C” corporation, the partnership in the
- 14 case of a partnership, the limited liability company in the case of
- 15 a limited liability company, and the “S” corporation in the case of
- 16 an “S” corporation.
- 17 (4) “Extremely low-income” has the same meaning as in Section
- 18 50053 of the Health and Safety Code.

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

14 (i) The project’s housing sponsor 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.

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

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

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

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

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

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

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

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

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

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

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

20 (F) (i) The California Tax Credit Allocation Committee may  
21 allocate a credit under this section in exchange for a credit allocated  
22 pursuant to Section 42(d)(5)(B) of the Internal Revenue Code in  
23 amounts up to 30 percent of the eligible basis of a building if the  
24 credits allowed under Section 42 of the Internal Revenue Code are  
25 reduced by an equivalent amount.

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

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

31 (1) In the case of any qualified low-income building that is a  
32 new building, as defined in Section 42 of the Internal Revenue  
33 Code and the regulations promulgated thereunder, and not federally  
34 subsidized, the term “applicable percentage” means the following:

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

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

3 (2) In the case of any qualified low-income building that (i) is  
4 a new building, as defined in Section 42 of the Internal Revenue  
5 Code and the regulations promulgated thereunder, (ii) not located  
6 in designated difficult development areas (DDAs) or qualified  
7 census tracts (QCTs), as defined in Section 42(d)(5)(B) of the  
8 Internal Revenue Code, and (iii) is federally subsidized, the term  
9 “applicable percentage” means for the first three years, 15 percent  
10 of the qualified basis of the building, and for the fourth year, 5  
11 percent of the qualified basis of the building.

12 (3) In the case of any qualified low-income building that is (i)  
13 an existing building, as defined in Section 42 of the Internal  
14 Revenue Code and the regulations promulgated thereunder, (ii)  
15 not located in designated difficult development areas (DDAs) or  
16 qualified census tracts (QCTs), as defined in Section 42(d)(5)(B)  
17 of the Internal Revenue Code, and (iii) is federally subsidized, the  
18 term applicable percentage means the following:

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

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

24 (4) In the case of any qualified low-income building that is (i)  
25 a new or an existing building, (ii) located in designated difficult  
26 development areas (DDAs) or qualified census tracts (QCTs) as  
27 defined in Section 42(d)(5)(B) of the Internal Revenue Code, and  
28 (iii) federally subsidized, the California Tax Credit Allocation  
29 Committee shall reduce the amount of California credit to be  
30 allocated under paragraph (2) and (3) by taking into account the  
31 increased federal credit received due to the basis boost provided  
32 under Section 42(d)(5)(B) of the Internal Revenue Code.

33 (5) In the case of any qualified low-income building that meets  
34 all of the requirements of subparagraphs (A) through (D), inclusive,  
35 the term “applicable percentage” means 30 percent for each of the  
36 first three years and 5 percent for the fourth year. A qualified  
37 low-income building receiving an allocation under this paragraph  
38 is ineligible to also receive an allocation under paragraph (3).

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

1 (B) The qualified low-income building is serving households  
2 of very low-income or extremely low-income such that the average  
3 maximum household income as restricted, pursuant to an existing  
4 regulatory agreement with a federal, state, county, local, or other  
5 governmental agency, is not more than 45 percent of the area  
6 median gross income, as determined under Section 42 of the  
7 Internal Revenue Code, adjusted by household size, and a tax credit  
8 regulatory agreement is entered into for a period of not less than  
9 55 years restricting the average targeted household income to no  
10 more than 45 percent of the area median income.

11 (C) The qualified low-income building would have insufficient  
12 credits under paragraphs (2) and (3) to complete substantial  
13 rehabilitation due to a low appraised value.

14 (D) The qualified low-income building will complete the  
15 substantial rehabilitation in connection with the credit allocation  
16 herein.

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

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

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

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

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

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

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

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

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

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

11 (1) The term “credit period” as defined in Section 42(f)(1) of  
12 the Internal Revenue Code is modified by substituting “four taxable  
13 years” for “10 taxable 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 shall not apply  
16 to the tax credit under this section.

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

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

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

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

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

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

1 (g) The aggregate housing credit dollar amount that may be  
2 allocated annually by the California Tax Credit Allocation  
3 Committee pursuant to this section, Section 17058, and Section  
4 23610.5 shall be an amount equal to the sum of all the following:

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

14 (B) An additional three hundred million dollars (\$300,000,000)  
15 for the 2016 calendar year, and, for the 2017 calendar year and  
16 each calendar year thereafter, three hundred million dollars  
17 (\$300,000,000) increased by the percentage, if any, by which the  
18 Consumer Price Index for the preceding calendar year exceeds the  
19 Consumer Price Index for the 2016 calendar year. For the purposes  
20 of this paragraph, the term “Consumer Price Index” means the last  
21 Consumer Price Index for All Urban Consumers published by the  
22 federal Department of Labor. A housing sponsor receiving an  
23 allocation under paragraph (1) of subdivision (c) shall not be  
24 eligible for receipt of the housing credit allocated from the  
25 increased amount under this subparagraph. A housing sponsor  
26 receiving an allocation under paragraph (1) of subdivision (c) shall  
27 remain eligible for receipt of the housing credit allocated from the  
28 credit ceiling amount under subparagraph (A).

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (F) A requirement that the housing sponsor notify the California  
2 Tax Credit Allocation Committee or its designee and the local  
3 agency that can enforce the regulatory agreement if there is a  
4 determination by the Internal Revenue Service that the project is  
5 not in compliance with Section 42(g) of the Internal Revenue Code.
- 6 (G) A requirement that the housing sponsor, as security for the  
7 performance of the housing sponsor’s obligations under the  
8 regulatory agreement, assign the housing sponsor’s interest in rents  
9 that it receives from the project, provided that until there is a  
10 default under the regulatory agreement, the housing sponsor is  
11 entitled to collect and retain the rents.
- 12 (H) The remedies available in the event of a default under the  
13 regulatory agreement that is not cured within a reasonable cure  
14 period, include, but are not limited to, allowing any of the parties  
15 designated to enforce the regulatory agreement to collect all rents  
16 with respect to the project; taking possession of the project and  
17 operating the project in accordance with the regulatory agreement  
18 until the enforcer determines the housing sponsor is in a position  
19 to operate the project in accordance with the regulatory agreement;  
20 applying to any court for specific performance; securing the  
21 appointment of a receiver to operate the project; or any other relief  
22 as may be appropriate.
- 23 (j) (1) The committee shall allocate the housing credit on a  
24 regular basis consisting of two or more periods in each calendar  
25 year during which applications may be filed and considered. The  
26 committee shall establish application filing deadlines, the maximum  
27 percentage of federal and state low-income housing tax credit  
28 ceiling that may be allocated by the committee in that period, and  
29 the approximate date on which allocations shall be made. If the  
30 enactment of federal or state law, the adoption of rules or  
31 regulations, or other similar events prevent the use of two allocation  
32 periods, the committee may reduce the number of periods and  
33 adjust the filing deadlines, maximum percentage of credit allocated,  
34 and allocation dates.
- 35 (2) The committee shall adopt a qualified allocation plan, as  
36 provided in Section 42(m)(1) of the Internal Revenue Code. In  
37 adopting this plan, the committee shall comply with the provisions  
38 of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue  
39 Code, respectively.

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (i) Projects serving large families in which a substantial number,  
7 as defined by the committee, of all residential units are low-income  
8 units with three or more bedrooms.

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

11 (iii) (I) Existing projects that are “at risk of conversion.”

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

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

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

23 (Ib) The Below-Market-Interest-Rate Program pursuant to  
24 Section 221(d)(3) of the National Housing Act, Sections  
25 1715l(d)(3) 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 Section  
29 18 101 of the Housing and Urban Development Act of 1965,  
30 Section 1701s of Title 12 of the United States Code, as amended.

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

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

36 (ib) The restrictions on rent and income levels will terminate  
37 or the federal insured mortgage on the property is eligible for  
38 prepayment any time within five years before or after the date of  
39 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 shall be modified  
21 as follows:

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

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

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

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

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

36 *SEC. 1.5. Section 12206 of the Revenue and Taxation Code is*  
37 *amended to read:*

38 12206. (a) (1) There shall be allowed as a credit against the  
39 "~~tax~~" (as "*tax*," as described by Section ~~12201~~) 12201, a state  
40 low-income housing tax credit in an amount equal to the amount

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

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

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

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

15 (5) “*Very low-income*” has the same meaning as in Section  
16 50053 of the Health and Safety Code.

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

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

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

32 (ii) It ~~shall qualify~~ *qualifies* for a credit under Section  
33 42(h)(4)(B) of the Internal Revenue ~~Code~~. *Code, relating to special*  
34 *rule where 50 percent or more of building is financed with*  
35 *tax-exempt bonds subject to volume cap.*

36 (B) The California Tax Credit Allocation Committee shall not  
37 require fees for the credit under this section in addition to those  
38 fees required for applications for the tax credit pursuant to Section  
39 42 of the Internal Revenue ~~Code~~. *Code, relating to low-income*  
40 *housing credit.* The committee may require a fee if the application

1 for the credit under this section is submitted in a calendar year  
2 after the year the application is submitted for the federal tax credit.

3 (C) (i) For a project that receives a preliminary reservation of  
4 the state low-income housing tax credit, allowed pursuant to  
5 subdivision (a), on or after January 1, 2009, ~~and before January 1,~~  
6 ~~2016,~~ the credit shall be allocated to the partners of a partnership  
7 owning the project in accordance with the partnership agreement,  
8 regardless of how the federal low-income housing tax credit with  
9 respect to the project is allocated to the partners, or whether the  
10 allocation of the credit under the terms of the agreement has  
11 substantial economic effect, within the meaning of Section 704(b)  
12 of the Internal Revenue ~~Code~~. *Code, relating to determination of*  
13 *distributive share.*

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

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

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

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

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

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

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

37 ~~(F) (i) Except as described in clause (ii), for buildings located~~  
38 ~~in designated difficult development areas (DDAs) or qualified~~  
39 ~~census tracts (QCTs), as defined in Section 42(d)(5)(B) of the~~  
40 ~~Internal Revenue Code, credits may be allocated under this section~~

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

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

14 (G)

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

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

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

28 (1) In the case of any qualified low-income building that receives  
 29 an allocation after 1989 and is a new building is a new building,  
 30 as defined in Section 42 of the Internal Revenue Code and the  
 31 regulations promulgated thereunder, and not federally subsidized,  
 32 the term “applicable percentage” means the following:

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

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

1 (2) In the case of any qualified low-income building that 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 (i) is a new building, as defined in Section 42 of the Internal  
6 Revenue Code and the regulations promulgated thereunder, (ii)  
7 not located in designated difficult development areas (DDAs) or  
8 qualified census tracts (QCTs), as defined in Section 42(d)(5)(B)  
9 of the Internal Revenue Code, and (iii) is federally subsidized, the  
10 term “applicable percentage” means for the first three years, 15  
11 percent of the qualified basis of the building, and for the fourth  
12 year, 5 percent of the qualified basis of the building.

13 (3) In the case of any qualified low-income building that is (i)  
14 an existing building, as defined in Section 42 of the Internal  
15 Revenue Code and the regulations promulgated thereunder, (ii)  
16 not located in designated difficult development areas (DDAs) or  
17 qualified census tracts (QCTs), as defined in Section 42(d)(5)(B)  
18 of the Internal Revenue Code, and (iii) is federally subsidized, the  
19 term applicable percentage means the following:

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

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

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

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

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

36 (ii) The Below-Market-Interest-Rate Program pursuant to  
37 Section 221(d)(3) of the National Housing Act, Sections  
38 1715l(d)(3) and (5) of Title 12 of the United States Code.

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

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

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

7 (vi) ~~The low-income housing credit program set forth in Section~~  
8 ~~42 of the Internal Revenue Code.~~

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

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

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

21 (4) *In the case of any qualified low-income building that is (i)*  
22 *a new or an existing building, (ii) located in designated difficult*  
23 *development areas (DDAs) or qualified census tracts (QCTs) as*  
24 *defined in Section 42(d)(5)(B) of the Internal Revenue Code, and*  
25 *(iii) federally subsidized, the California Tax Credit Allocation*  
26 *Committee shall reduce the amount of California credit to be*  
27 *allocated under paragraph (2) and (3) by taking into account the*  
28 *increased federal credit received due to the basis boost provided*  
29 *under Section 42(d)(5)(B) of the Internal Revenue Code.*

30 (5) *In the case of any qualified low-income building that meets*  
31 *all of the requirements of subparagraphs (A) through (D),*  
32 *inclusive, the term “applicable percentage” means 30 percent for*  
33 *each of the first three years and 5 percent for the fourth year. A*  
34 *qualified low-income building receiving an allocation under this*  
35 *paragraph is ineligible to also receive an allocation under*  
36 *paragraph (3).*

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

38 (B) *The qualified low-income building is serving households of*  
39 *very low-income or extremely low-income such that the average*  
40 *maximum household income as restricted, pursuant to an existing*

1 *regulatory agreement with a federal, state, county, local, or other*  
2 *governmental agency, is not more than 45 percent of the area*  
3 *median gross income, as determined under Section 42 of the*  
4 *Internal Revenue Code, adjusted by household size, and a tax*  
5 *credit regulatory agreement is entered into for a period of not less*  
6 *than 55 years restricting the average targeted household income*  
7 *to no more than 45 percent of the area median income.*

8 (C) *The qualified low-income building would have insufficient*  
9 *credits under paragraphs (2) and (3) to complete substantial*  
10 *rehabilitation due to a low appraised value.*

11 (D) *The qualified low-income building will complete the*  
12 *substantial rehabilitation in connection with the credit allocation*  
13 *herein.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (1) Section 42(h)(2) of the Internal Revenue ~~Code~~ *Code, relating*  
39 *to allocated credit amount to apply to all taxable years ending*

1 *during or after credit allocation year*, shall not be applicable and  
2 instead the following provisions shall be applicable:

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

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

12 (g) The aggregate housing credit dollar amount that may be  
13 allocated annually by the California Tax Credit Allocation  
14 Committee pursuant to this section, Section 17058, and Section  
15 23610.5 shall be an amount equal to the sum of all the following:

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

25 (B) *An additional three hundred million dollars (\$300,000,000)*  
26 *for the 2016 calendar year, and, for the 2017 calendar year and*  
27 *each calendar year thereafter, three hundred million dollars*  
28 *(\$300,000,000) increased by the percentage, if any, by which the*  
29 *Consumer Price Index for the preceding calendar year exceeds*  
30 *the Consumer Price Index for the 2016 calendar year. For the*  
31 *purposes of this paragraph, the term “Consumer Price Index”*  
32 *means the last Consumer Price Index for All Urban Consumers*  
33 *published by the federal Department of Labor. A housing sponsor*  
34 *receiving an allocation under paragraph (1) of subdivision (c)*  
35 *shall not be eligible for receipt of the housing credit allocated*  
36 *from the increased amount under this subparagraph. A housing*  
37 *sponsor receiving an allocation under paragraph (1) of subdivision*  
38 *(c) shall remain eligible for receipt of the housing credit allocated*  
39 *from the credit ceiling amount under subparagraph (A).*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1     *(Ib) The Below-Market-Interest-Rate Program pursuant to*  
 2     *Section 221(d)(3) of the National Housing Act, Sections 1715l(d)(3)*  
 3     *and (5) of Title 12 of the United States Code.*  
 4     *(Ic) Section 236 of the National Housing Act, Section 1715z-1*  
 5     *of Title 12 of the United States Code.*  
 6     *(Id) Programs for rent supplement assistance pursuant to*  
 7     *Section 18 101 of the Housing and Urban Development Act of*  
 8     *1965, Section 1701s of Title 12 of the United States Code, as*  
 9     *amended.*  
 10    *(Ie) Programs pursuant to Section 515 of the Housing Act of*  
 11    *1949, Section 1485 of Title 42 of the United States Code, as*  
 12    *amended.*  
 13    *(If) The low-income housing credit program set forth in Section*  
 14    *42 of the Internal Revenue Code.*  
 15    *(ib) The restrictions on rent and income levels will terminate*  
 16    *or the federal insured mortgage on the property is eligible for*  
 17    *prepayment any time within five years before or after the date of*  
 18    *application to the California Tax Credit Allocation Committee.*  
 19    *(ic) The entity acquiring the property enters into a regulatory*  
 20    *agreement that requires the property to be operated in accordance*  
 21    *with the requirements of this section for a period equal to the*  
 22    *greater of 55 years or the life of the property.*  
 23    *(id) The property satisfies the requirements of Section 42(e) of*  
 24    *the Internal Revenue Code, regarding rehabilitation expenditures*  
 25    *except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not*  
 26    *apply.*  
 27    (iiv) Projects for which a public agency provides direct or indirect  
 28 long-term financial support for at least 15 percent of the total  
 29 project development costs or projects for which the owner’s equity  
 30 constitutes at least 30 percent of the total project development  
 31 costs.  
 32    (v) Projects that provide tenant amenities not generally available  
 33 to residents of low-income housing projects.  
 34    (4) For purposes of allocating credits pursuant to this section,  
 35 the committee shall not give preference to any project by virtue  
 36 of the date of submission of its application except to break a tie  
 37 when two or more of the projects have an equal rating.  
 38    (k) Section 42(l) of the Internal Revenue ~~Code~~ *Code, relating*  
 39    *to certifications and other reports to the secretary, shall be*  
 40    modified as follows:

1 The term “secretary” shall be replaced by the term “California  
2 Franchise “Franchise Tax Board.”

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

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

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

12 (o) (1) *For a project that receives a preliminary reservation*  
13 *under this section beginning on or after January 1, 2016, a*  
14 *taxpayer may make an irrevocable election in its application to*  
15 *the California Tax Credit Allocation Committee to sell all or any*  
16 *portion of any credit allowed under this section to one or more*  
17 *unrelated parties for each taxable year in which the credit is*  
18 *allowed subject to both of the following conditions:*

19 (A) *The credit is sold for consideration that is not less than 80*  
20 *percent of the amount of the credit.*

21 (B) *The unrelated party or parties purchasing any or all of the*  
22 *credit pursuant to this subdivision is a taxpayer allowed the credit*  
23 *under this section for the taxable year of the purchase or any prior*  
24 *taxable year or is a taxpayer allowed the federal credit under*  
25 *Section 42 of the Internal Revenue Code, relating to low-income*  
26 *housing credit, for the taxable year of the purchase or any prior*  
27 *taxable year in connection with any project located in this state.*  
28 *For purposes of this subparagraph, “taxpayer allowed the credit*  
29 *under this section” means a taxpayer that is allowed the credit*  
30 *under this section without regard to the purchase of a credit*  
31 *pursuant to this subdivision.*

32 (2) (A) *The taxpayer that originally received the credit shall*  
33 *report to the California Tax Credit Allocation Committee within*  
34 *10 days of the sale of the credit, in the form and manner specified*  
35 *by the California Tax Credit Allocation Committee, all required*  
36 *information regarding the purchase and sale of the credit,*  
37 *including the social security or other taxpayer identification*  
38 *number of the unrelated party to whom the credit has been sold,*  
39 *the face amount of the credit sold, and the amount of consideration*  
40 *received by the taxpayer for the sale of the credit.*

1 (B) *The California Tax Credit Allocation Committee shall*  
2 *provide an annual listing to the Franchise Tax Board, in a form*  
3 *and manner agreed upon by the California Tax Credit Allocation*  
4 *Committee and the Franchise Tax Board, of the taxpayers that*  
5 *have sold or purchased a credit pursuant to this subdivision.*

6 (3) (A) *A credit may be sold pursuant to this subdivision to*  
7 *more than one unrelated party.*

8 (B) (i) *Except as provided in clause (ii), a credit shall not be*  
9 *resold by the unrelated party to another taxpayer or other party.*

10 (ii) *All or any portion of any credit allowed under this section*  
11 *may be resold once by an original purchaser to one or more*  
12 *unrelated parties, subject to all of the requirements of this*  
13 *subdivision.*

14 (4) *Notwithstanding any other provision of law, the taxpayer*  
15 *that originally received the credit that is sold pursuant to*  
16 *paragraph (1) shall remain solely liable for all obligations and*  
17 *liabilities imposed on the taxpayer by this section with respect to*  
18 *the credit, none of which shall apply to any party to whom the*  
19 *credit has been sold or subsequently transferred. Parties who*  
20 *purchase credits pursuant to paragraph (1) shall be entitled to*  
21 *utilize the purchased credits in the same manner in which the*  
22 *taxpayer that originally received the credit could utilize them.*

23 (5) *A taxpayer shall not sell a credit allowed by this section if*  
24 *the taxpayer was allowed the credit on any tax return of the*  
25 *taxpayer.*

26 (6) *Notwithstanding paragraph (1), the taxpayer, with the*  
27 *approval of the Executive Director of the California Tax Credit*  
28 *Allocation Committee, may rescind the election to sell all or any*  
29 *portion of the credit allowed under this section if the consideration*  
30 *for the credit falls below 80 percent of the amount of the credit*  
31 *after the California Tax Credit Allocation Committee reservation.*

32 (p) *The California Tax Credit Allocation Committee may*  
33 *prescribe rules, guidelines, or procedures necessary or appropriate*  
34 *to carry out the purposes of this section, including any guidelines*  
35 *regarding the allocation of the credit allowed under this section.*  
36 *Chapter 3.5 (commencing with Section 11340) of Part 1 of Division*  
37 *3 of Title 2 of the Government Code shall not apply to any rule,*  
38 *guideline, or procedure prescribed by the California Tax Credit*  
39 *Allocation Committee pursuant to this section.*

40 (⊖)

1 (q) This section shall remain in effect for as long as Section 42  
2 of the Internal Revenue Code, relating to low-income housing  
3 ~~credits~~, *credit*, remains in effect.

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

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

11 (2) “Taxpayer” for purposes of this section means the sole owner  
12 in the case of an individual, the partners in the case of a partnership,  
13 members in the case of a limited liability company, and the  
14 shareholders in the case of an “S” corporation.

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

20 (4) “Extremely low-income” has the same meaning as in Section  
21 50053 of the Health and Safety Code.

22 (5) “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.

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

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

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

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

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

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

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

38 (B) In the case of a partnership, limited liability company, or  
39 an "S" corporation, the housing sponsor shall provide a copy of

1 the California Tax Credit Allocation Committee certification to  
2 the taxpayer.

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

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

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

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

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

18 (1) In the case of any qualified low-income building that is a  
19 new building, as defined in Section 42 of the Internal Revenue  
20 Code and the regulations promulgated thereunder, and not federally  
21 subsidized, the term “applicable percentage” means the following:

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

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

30 (2) In the case of any qualified low-income building that (i) is  
31 a new building, as defined in Section 42 of the Internal Revenue  
32 Code and the regulations promulgated thereunder, (ii) not located  
33 in designated difficult development areas (DDAs) or qualified  
34 census tracts (QCTs), as defined in Section 42(d)(5)(B) of the  
35 Internal Revenue Code, and (iii) is federally subsidized, the term  
36 “applicable percentage” means for the first three years, 15 percent  
37 of the qualified basis of the building, and for the fourth year, 5  
38 percent of the qualified basis of the building.

39 (3) In the case of any qualified low-income building that is (i)  
40 an existing building, as defined in Section 42 of the Internal

1 Revenue Code and the regulations promulgated thereunder, (ii)  
2 not located in designated difficult development areas (DDAs) or  
3 qualified census tracts (QCTs), as defined in Section 42(d)(5)(B)  
4 of the Internal Revenue Code, and (iii) is federally subsidized, the  
5 term applicable percentage means the following:

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

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

11 (4) In the case of any qualified low-income building that is (i)  
12 a new or an existing building, (ii) located in designated difficult  
13 development areas (DDAs) or qualified census tracts (QCTs) as  
14 defined in Section 42(d)(5)(B) of the Internal Revenue Code, and  
15 (iii) federally subsidized, the California Tax Credit Allocation  
16 Committee shall reduce the amount of California credit to be  
17 allocated under subparagraph (2) and (3) by taking into account  
18 the increased federal credit received due to the basis boost provided  
19 under Section 42(d)(5)(B) of the Internal Revenue Code.

20 (5) In the case of any qualified low-income building that meets  
21 all of the requirements of subparagraphs (A) through (D), inclusive,  
22 the term “applicable percentage” means 30 percent for each of the  
23 first three years and 5 percent for the fourth year. A qualified  
24 low-income building receiving an allocation under this paragraph  
25 is ineligible to also receive an allocation under paragraph (3).

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

27 (B) The qualified low-income building is serving households  
28 of very low-income or extremely low-income such that the average  
29 maximum household income as restricted, pursuant to an existing  
30 regulatory agreement with a federal, state, county, local, or other  
31 governmental agency, is not more than 45 percent of the area  
32 median gross income, as determined under Section 42 of the  
33 Internal Revenue Code, adjusted by household size, and a tax credit  
34 regulatory agreement is entered into for a period of not less than  
35 55 years restricting the average targeted household income to no  
36 more than 45 percent of the area median income.

37 (C) The qualified low-income building would have insufficient  
38 credits under paragraphs (2) and (3) to complete substantial  
39 rehabilitation due to a low appraised value.

1 (D) The qualified low-income building will complete the  
2 substantial rehabilitation in connection with the credit allocation  
3 herein.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (g) The aggregate housing credit dollar amount that may be  
28 allocated annually by the California Tax Credit Allocation  
29 Committee pursuant to this section, Section 12206, and Section  
30 23610.5 shall be an amount equal to the sum of all the following:

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

1 (B) An additional three hundred million dollars (\$300,000,000)  
2 for the 2016 calendar year, and, for the 2017 calendar year and  
3 each calendar year thereafter, three hundred million dollars  
4 (\$300,000,000) increased by the percentage, if any, by which the  
5 Consumer Price Index for the preceding calendar year exceeds the  
6 Consumer Price Index for the 2016 calendar year. For the purposes  
7 of this paragraph, the term “Consumer Price Index” means the last  
8 Consumer Price Index for All Urban Consumers published by the  
9 federal Department of Labor. A housing sponsor receiving an  
10 allocation under paragraph (1) of subdivision (c) shall not be  
11 eligible for receipt of the housing credit allocated from the  
12 increased amount under this subparagraph. A housing sponsor  
13 receiving an allocation under paragraph (1) of subdivision (c) shall  
14 remain eligible for receipt of the housing credit allocated from the  
15 credit ceiling amount under subparagraph (A).

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

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

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

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

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

38 (i) Section 42(j) of the Internal Revenue Code shall not be  
39 applicable and the following requirements of this section shall be  
40 set forth in a regulatory agreement between the California Tax

1 Credit Allocation Committee and the housing sponsor, and the  
2 regulatory agreement shall be subordinated, when required, to any  
3 lien or encumbrance of any banks or other institutional lenders to  
4 the project. The regulatory agreement entered into pursuant to  
5 subdivision (f) of Section 50199.14 of the Health and Safety Code  
6 shall apply, provided that the agreement includes all of the  
7 following provisions:

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

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

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

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

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

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

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

33 (8) The remedies available in the event of a default under the  
34 regulatory agreement that is not cured within a reasonable cure  
35 period, include, but are not limited to, allowing any of the parties  
36 designated to enforce the regulatory agreement to collect all rents  
37 with respect to the project; taking possession of the project and  
38 operating the project in accordance with the regulatory agreement  
39 until the enforcer determines the housing sponsor is in a position  
40 to operate the project in accordance with the regulatory agreement;

1 applying to any court for specific performance; securing the  
2 appointment of a receiver to operate the project; or any other relief  
3 as may be appropriate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (iii) (I) Existing projects that are “at risk of conversion.”

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

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

38 (Ia) New construction, substantial rehabilitation, moderate  
39 rehabilitation, property disposition, and loan management set-aside  
40 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 (Ib) 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 (Ic) Section 236 of the National Housing Act, Section 1715z-1  
7 of Title 12 of the United States Code.

8 (Id) Programs for rent supplement assistance pursuant to Section  
9 18 101 of the Housing and Urban Development Act of 1965,  
10 Section 1701s of Title 12 of the United States Code, as amended.

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

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

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

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

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

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

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

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

1 The term “secretary” shall be replaced by the term “California  
2 Franchise Tax Board.”

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

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

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

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

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

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

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

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

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

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

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

35 *SEC. 2.5. Section 17058 of the Revenue and Taxation Code is*  
36 *amended to read:*

37 17058. (a) (1) There shall be allowed as a credit against the  
38 “~~net tax~~” (as ~~tax,~~ as defined in ~~by Section 17039~~) 17039, a state  
39 low-income housing *tax* credit in an amount equal to the amount  
40 determined in subdivision (c), computed in accordance with ~~the~~

1 ~~provisions of~~ Section 42 of the Internal Revenue Code, *relating*  
2 *to low-income housing credit*, except as otherwise provided in this  
3 section.

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

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

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

15 (5) *“Very low-income” has the same meaning as in Section*  
16 *50053 of the Health and Safety Code.*

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

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

24 (i) Except for projects to provide farmworker housing, as defined  
25 in subdivision (h) of Section 50199.7 of the Health and Safety  
26 Code, that are allocated credits solely under the set-aside described  
27 in subdivision (c) of Section 50199.20 of the Health and Safety  
28 Code, the project’s housing sponsor has been allocated by the  
29 California Tax Credit Allocation Committee a credit for federal  
30 income tax purposes under Section 42 of the Internal Revenue  
31 ~~Code.~~ *Code, relating to low-income housing credit.*

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

36 (B) The California Tax Credit Allocation Committee shall not  
37 require fees for the credit under this section in addition to those  
38 fees required for applications for the tax credit pursuant to Section  
39 42 of the Internal Revenue ~~Code.~~ *Code, relating to low-income*  
40 *housing credit.* The committee may require a fee if the application

1 for the credit under this section is submitted in a calendar year  
2 after the year the application is submitted for the federal tax credit.

3 (C) (i) For a project that receives a preliminary reservation of  
4 the state low-income housing tax credit, allowed pursuant to  
5 subdivision (a), on or after January 1, 2009, ~~and before January 1,~~  
6 ~~2016,~~ the credit shall be allocated to the partners of a partnership  
7 owning the project in accordance with the partnership agreement,  
8 regardless of how the federal low-income housing tax credit with  
9 respect to the project is allocated to the partners, or whether the  
10 allocation of the credit under the terms of the agreement has  
11 substantial economic effect, within the meaning of Section 704(b)  
12 of the Internal Revenue ~~Code~~. *Code, relating to determination of*  
13 *distributive share.*

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

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

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

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

34 (B) In the case of a ~~partnership~~ *partnership, limited liability*  
35 *company*, or an "S" corporation, the housing sponsor shall provide  
36 a copy of the California Tax Credit Allocation Committee  
37 certification to the taxpayer.

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

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

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

12 ~~(ii) Notwithstanding clause (i), the California Tax Credit~~  
13 ~~Allocation Committee may allocate the credit for buildings located~~  
14 ~~in DDAs or QCTs that are restricted to having 50 percent of its~~  
15 ~~occupants be special needs households, as defined in the California~~  
16 ~~Code of Regulations by the California Tax Credit Allocation~~  
17 ~~Committee, even if the taxpayer receives federal credits pursuant~~  
18 ~~to Section 42(d)(5)(B) of the Internal Revenue Code, provided~~  
19 ~~that the credit allowed under this section shall not exceed 30~~  
20 ~~percent of the eligible basis of the building.~~

21 (G)

22 (E) (i) The California Tax Credit Allocation Committee may  
23 allocate a credit under this section in exchange for a credit allocated  
24 pursuant to Section 42(d)(5)(B) of the Internal Revenue ~~Code~~  
25 *Code, relating to increase in credit for buildings in high-cost areas,*  
26 in amounts up to 30 percent of the eligible basis of a building if  
27 the credits allowed under Section 42 of the Internal Revenue ~~Code~~  
28 *Code, relating to low-income housing credit,* are reduced by an  
29 equivalent amount.

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

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

35 (1) ~~In the case of any qualified low-income building placed in~~  
36 ~~service by the housing sponsor during 1987, the term “applicable~~  
37 ~~percentage” means 9 percent for each of the first three years and~~  
38 ~~3 percent for the fourth year for new buildings (whether or not the~~  
39 ~~building is federally subsidized) and for existing buildings.~~

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

4 *(1) In the case of any qualified low-income building that is a*  
5 *new building, as defined in Section 42 of the Internal Revenue*  
6 *Code and the regulations promulgated thereunder, and not*  
7 *federally subsidized, the term “applicable percentage” means the*  
8 *following:*

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

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

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

21 *(2) In the case of any qualified low-income building that (i) is*  
22 *a new building, as defined in Section 42 of the Internal Revenue*  
23 *Code and the regulations promulgated thereunder, (ii) not located*  
24 *in designated difficult development areas (DDAs) or qualified*  
25 *census tracts (QCTs), as defined in Section 42(d)(5)(B) of the*  
26 *Internal Revenue Code, and (iii) is federally subsidized, the term*  
27 *“applicable percentage” means for the first three years, 15 percent*  
28 *of the qualified basis of the building, and for the fourth year, 5*  
29 *percent of the qualified basis of the building.*

30 *(3) In the case of any qualified low-income building that is (i)*  
31 *an existing building, as defined in Section 42 of the Internal*  
32 *Revenue Code and the regulations promulgated thereunder, (ii)*  
33 *not located in designated difficult development areas (DDAs) or*  
34 *qualified census tracts (QCTs), as defined in Section 42(d)(5)(B)*  
35 *of the Internal Revenue Code, and (iii) is federally subsidized, the*  
36 *term applicable percentage means the following:*

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

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

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

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

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

14 (ii) The Below-Market-Interest-Rate Program pursuant to  
15 Section 221(d)(3) of the National Housing Act, Sections  
16 1715l(d)(3) and (5) of Title 12 of the United States Code.

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

19 (iv) Programs for rent supplement assistance pursuant to Section  
20 101 of the Housing and Urban Development Act of 1965, Section  
21 1701s of Title 12 of the United States Code, as amended.

22 (v) Programs pursuant to Section 515 of the Housing Act of  
23 1949, Section 1485 of Title 42 of the United States Code, as  
24 amended.

25 (vi) The low-income housing credit program set forth in Section  
26 42 of the Internal Revenue Code.

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

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

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

39 (4) *In the case of any qualified low-income building that is (i)*  
40 *a new or an existing building, (ii) located in designated difficult*

1 *development areas (DDAs) or qualified census tracts (QCTs) as*  
2 *defined in Section 42(d)(5)(B) of the Internal Revenue Code, and*  
3 *(iii) federally subsidized, the California Tax Credit Allocation*  
4 *Committee shall reduce the amount of California credit to be*  
5 *allocated under paragraphs (2) and (3) by taking into account the*  
6 *increased federal credit received due to the basis boost provided*  
7 *under Section 42(d)(5)(B) of the Internal Revenue Code.*

8 (5) *In the case of any qualified low-income building that meets*  
9 *all of the requirements of subparagraphs (A) through (D),*  
10 *inclusive, the term “applicable percentage” means 30 percent for*  
11 *each of the first three years and 5 percent for the fourth year. A*  
12 *qualified low-income building receiving an allocation under this*  
13 *paragraph is ineligible to also receive an allocation under*  
14 *paragraph (3).*

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

16 (B) *The qualified low-income building is serving households of*  
17 *very low-income or extremely low-income such that the average*  
18 *maximum household income as restricted, pursuant to an existing*  
19 *regulatory agreement with a federal, state, county, local, or other*  
20 *governmental agency, is not more than 45 percent of the area*  
21 *median gross income, as determined under Section 42 of the*  
22 *Internal Revenue Code, adjusted by household size, and a tax*  
23 *credit regulatory agreement is entered into for a period of not less*  
24 *than 55 years restricting the average targeted household income*  
25 *to no more than 45 percent of the area median income.*

26 (C) *The qualified low-income building would have insufficient*  
27 *credits under paragraphs (2) and (3) to complete substantial*  
28 *rehabilitation due to a low appraised value.*

29 (D) *The qualified low-income building will complete the*  
30 *substantial rehabilitation in connection with the credit allocation*  
31 *herein.*

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

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

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

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

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

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

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

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

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

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

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

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

38 (3) Section 42(f)(3) of the Internal Revenue ~~Code~~ *Code, relating*  
39 *to determination of applicable percentage with respect to increases*

1 *in qualified basis after first year of credit period*, is modified to  
2 read:

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

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

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

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

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

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

34 (1) (A) Seventy million dollars (\$70,000,000) for the 2001  
35 calendar year, and, for the 2002 calendar year and each calendar  
36 year thereafter, seventy million dollars (\$70,000,000) increased  
37 by the percentage, if any, by which the Consumer Price Index for  
38 the preceding calendar year exceeds the Consumer Price Index for  
39 the 2001 calendar year. For the purposes of this paragraph, the  
40 term “Consumer Price Index” means the last Consumer Price Index

1 for All Urban Consumers published by the federal Department of  
2 Labor.

3 (B) *An additional three hundred million dollars (\$300,000,000)*  
4 *for the 2016 calendar year, and, for the 2017 calendar year and*  
5 *each calendar year thereafter, three hundred million dollars*  
6 *(\$300,000,000) increased by the percentage, if any, by which the*  
7 *Consumer Price Index for the preceding calendar year exceeds*  
8 *the Consumer Price Index for the 2016 calendar year. For the*  
9 *purposes of this paragraph, the term “Consumer Price Index”*  
10 *means the last Consumer Price Index for All Urban Consumers*  
11 *published by the federal Department of Labor. A housing sponsor*  
12 *receiving an allocation under paragraph (1) of subdivision (c)*  
13 *shall not be eligible for receipt of the housing credit allocated*  
14 *from the increased amount under this subparagraph. A housing*  
15 *sponsor receiving an allocation under paragraph (1) of subdivision*  
16 *(c) shall remain eligible for receipt of the housing credit allocated*  
17 *from the credit ceiling amount under subparagraph (A).*

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (8) ~~The~~ *A provision that the* remedies available in the event of  
40 a default under the regulatory agreement that is not cured within

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (Id) Programs for rent supplement assistance pursuant to  
21 Section 18 101 of the Housing and Urban Development Act of  
22 1965, Section 1701s of Title 12 of the United States Code, as  
23 amended.

24 (Ie) Programs pursuant to Section 515 of the Housing Act of  
25 1949, Section 1485 of Title 42 of the United States Code, as  
26 amended.

27 (If) The low-income housing credit program set forth in Section  
28 42 of the Internal Revenue Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (r) This section shall remain in effect on and after December  
4 1, 1990, for as long as Section 42 of the Internal Revenue Code,  
5 relating to low-income housing ~~credits~~, *credit*, remains in effect.

6 (s) (1) *For a project that receives a preliminary reservation*  
7 *under this section beginning on or after January 1, 2016, a*  
8 *taxpayer may make an irrevocable election in its application to*  
9 *the California Tax Credit Allocation Committee to sell all or any*  
10 *portion of any credit allowed under this section to one or more*  
11 *unrelated parties for each taxable year in which the credit is*  
12 *allowed subject to both of the following conditions:*

13 (A) *The credit is sold for consideration that is not less than 80*  
14 *percent of the amount of the credit.*

15 (B) *The unrelated party or parties purchasing any or all of the*  
16 *credit pursuant to this subdivision is a taxpayer allowed the credit*  
17 *under this section for the taxable year of the purchase or any prior*  
18 *taxable year or is a taxpayer allowed the federal credit under*  
19 *Section 42 of the Internal Revenue Code, relating to low-income*  
20 *housing credit, for the taxable year of the purchase or any prior*  
21 *taxable year in connection with any project located in this state.*  
22 *For purposes of this subparagraph, “taxpayer allowed the credit*  
23 *under this section” means a taxpayer that is allowed the credit*  
24 *under this section without regard to the purchase of a credit*  
25 *pursuant to this subdivision.*

26 (2) (A) *The taxpayer that originally received the credit shall*  
27 *report to the California Tax Credit Allocation Committee within*  
28 *10 days of the sale of the credit, in the form and manner specified*  
29 *by the California Tax Credit Allocation Committee, all required*  
30 *information regarding the purchase and sale of the credit,*  
31 *including the social security or other taxpayer identification*  
32 *number of the unrelated party to whom the credit has been sold,*  
33 *the face amount of the credit sold, and the amount of consideration*  
34 *received by the taxpayer for the sale of the credit.*

35 (B) *The California Tax Credit Allocation Committee shall*  
36 *provide an annual listing to the Franchise Tax Board, in a form*  
37 *and manner agreed upon by the California Tax Credit Allocation*  
38 *Committee and the Franchise Tax Board, of the taxpayers that*  
39 *have sold or purchased a credit pursuant to this subdivision.*

1 (3) (A) A credit may be sold pursuant to this subdivision to  
2 more than one unrelated party.

3 (B) (i) Except as provided in clause (ii), a credit shall not be  
4 resold by the unrelated party to another taxpayer or other party.

5 (ii) All or any portion of any credit allowed under this section  
6 may be resold once by an original purchaser to one or more  
7 unrelated parties, subject to all of the requirements of this  
8 subdivision.

9 (4) Notwithstanding any other provision of law, the taxpayer  
10 that originally received the credit that is sold pursuant to  
11 paragraph (1) shall remain solely liable for all obligations and  
12 liabilities imposed on the taxpayer by this section with respect to  
13 the credit, none of which shall apply to any party to whom the  
14 credit has been sold or subsequently transferred. Parties who  
15 purchase credits pursuant to paragraph (1) shall be entitled to  
16 utilize the purchased credits in the same manner in which the  
17 taxpayer that originally received the credit could utilize them.

18 (5) A taxpayer shall not sell a credit allowed by this section if  
19 the taxpayer was allowed the credit on any tax return of the  
20 taxpayer.

21 (6) Notwithstanding paragraph (1), the taxpayer, with the  
22 approval of the Executive Director of the California Tax Credit  
23 Allocation Committee, may rescind the election to sell all or any  
24 portion of the credit allowed under this section if the consideration  
25 for the credit falls below 80 percent of the amount of the credit  
26 after the California Tax Credit Allocation Committee reservation.

27 (t) The California Tax Credit Allocation Committee may  
28 prescribe rules, guidelines, or procedures necessary or appropriate  
29 to carry out the purposes of this section, including any guidelines  
30 regarding the allocation of the credit allowed under this section.  
31 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division  
32 3 of Title 2 of the Government Code shall not apply to any rule,  
33 guideline, or procedure prescribed by the California Tax Credit  
34 Allocation Committee pursuant to this section.

35 (f)

36 (u) The amendments to this section made by ~~the act adding this~~  
37 ~~subdivision~~ Chapter 1222 of the Statutes of 1993 shall apply only  
38 to taxable years beginning on or after January 1, 1994.

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

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

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

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

15 (4) “Extremely low-income” has the same meaning as in Section  
16 50053 of the Health and Safety Code.

17 (5) “Very low-income” has the same meaning as in Section  
18 50053 of the Health and Safety Code.

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

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

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

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

36 (B) The California Tax Credit Allocation Committee shall not  
37 require fees for the credit under this section in addition to those  
38 fees required for applications for the tax credit pursuant to Section  
39 42 of the Internal Revenue Code. The committee may require a  
40 fee if the application for the credit under this section is submitted

1 in a calendar year after the year the application is submitted for  
2 the federal tax credit.

3 (C) (i) For a project that receives a preliminary reservation of  
4 the state low-income housing tax credit, allowed pursuant to  
5 subdivision (a), on or after January 1, 2009, and before January 1,  
6 2016, the credit shall be allocated to the partners of a partnership  
7 owning the project in accordance with the partnership agreement,  
8 regardless of how the federal low-income housing tax credit with  
9 respect to the project is allocated to the partners, or whether the  
10 allocation of the credit under the terms of the agreement has  
11 substantial economic effect, within the meaning of Section 704(b)  
12 of the Internal Revenue Code.

13 (ii) To the extent the allocation of the credit to a partner under  
14 this section lacks substantial economic effect, any loss or deduction  
15 otherwise allowable under this part that is attributable to the sale  
16 or other disposition of that partner’s partnership interest made prior  
17 to the expiration of the federal credit shall not be allowed in the  
18 taxable year in which the sale or other disposition occurs, but shall  
19 instead be deferred until and treated as if it occurred in the first  
20 taxable year immediately following the taxable year in which the  
21 federal credit period expires for the project described in clause (i).

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

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

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

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

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

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

1 (E) (i) The California Tax Credit Allocation Committee may  
2 allocate a credit under this section in exchange for a credit allocated  
3 pursuant to Section 42(d)(5)(B) of the Internal Revenue Code in  
4 amounts up to 30 percent of the eligible basis of a building if the  
5 credits allowed under Section 42 of the Internal Revenue Code are  
6 reduced by an 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 shall be modified  
11 as follows:

12 (1) In the case of any qualified low-income building that is a  
13 new building, as defined in Section 42 of the Internal Revenue  
14 Code and the regulations promulgated thereunder, and not federally  
15 subsidized, the term “applicable percentage” means the following:

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

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

24 (2) In the case of any qualified low-income building that (i) is  
25 a new building, as defined in Section 42 of the Internal Revenue  
26 Code and the regulations promulgated thereunder, (ii) not located  
27 in designated difficult development areas (DDAs) or qualified  
28 census tracts (QCTs), as defined in Section 42(d)(5)(B) of the  
29 Internal Revenue Code, and (iii) is federally subsidized, the term  
30 “applicable percentage” means for the first three years, 15 percent  
31 of the qualified basis of the building, and for the fourth year, 5  
32 percent of the qualified basis of the building.

33 (3) In the case of any qualified low-income building that is (i)  
34 an existing building, as defined in Section 42 of the Internal  
35 Revenue Code and the regulations promulgated thereunder, (ii)  
36 not located in designated difficult development areas (DDAs) or  
37 qualified census tracts (QCTs), as defined in Section 42(d)(5)(B)  
38 of the Internal Revenue Code, and (iii) is federally subsidized, the  
39 term applicable percentage means the following:

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

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

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

16 (5) In the case of any qualified low-income building that meets  
17 all of the requirements of subparagraphs (A) through (D), inclusive,  
18 the term “applicable percentage” means 30 percent for each of the  
19 first three years and 5 percent for the fourth year. A qualified  
20 low-income building receiving an allocation under this paragraph  
21 is ineligible to also receive an allocation under paragraph (3).

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

23 (B) The qualified low-income building is serving households  
24 of very low-income or extremely low-income such that the average  
25 maximum household income as restricted, pursuant to an existing  
26 regulatory agreement with a federal, state, county, local, or other  
27 governmental agency, is not more than 45 percent of the area  
28 median gross income, as determined under Section 42 of the  
29 Internal Revenue Code, adjusted by household size, and a tax credit  
30 regulatory agreement is entered into for a period of not less than  
31 55 years restricting the average targeted household income to no  
32 more than 45 percent of the area median income.

33 (C) The qualified low-income building would have insufficient  
34 credits under paragraphs (2) and (3) to complete substantial  
35 rehabilitation due to a low appraised value.

36 (D) The qualified low-income building will complete the  
37 substantial rehabilitation in connection with the credit allocation  
38 herein.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (g) The aggregate housing credit dollar amount that may be  
23 allocated annually by the California Tax Credit Allocation  
24 Committee pursuant to this section, Section 12206, and Section  
25 17058 shall be an amount equal to the sum of all the following:

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

35 (B) An additional three hundred million dollars (\$300,000,000)  
36 for the 2016 calendar year, and, for the 2017 calendar year and  
37 each calendar year thereafter, three hundred million dollars  
38 (\$300,000,000) increased by the percentage, if any, by which the  
39 Consumer Price Index for the preceding calendar year exceeds the  
40 Consumer Price Index for the 2016 calendar year. For the purposes

1 of this paragraph, the term “Consumer Price Index” means the last  
2 Consumer Price Index for All Urban Consumers published by the  
3 federal Department of Labor. A housing sponsor receiving an  
4 allocation under paragraph (1) of subdivision (c) shall not be  
5 eligible for receipt of the housing credit allocated from the  
6 increased amount under this subparagraph. A housing sponsor  
7 receiving an allocation under paragraph (1) of subdivision (c) shall  
8 remain eligible for receipt of the housing credit allocated from the  
9 credit ceiling amount under subparagraph (A).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (j) (1) The committee shall allocate the housing credit on a  
40 regular basis consisting of two or more periods in each calendar

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (iii) (I) Existing projects that are “at risk of conversion.”

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

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

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

37 (Ib) The Below-Market-Interest-Rate Program pursuant to  
38 Section 221(d)(3) of the National Housing Act, Sections  
39 1715l(d)(3) and (5) of Title 12 of the United States Code.

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

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

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

9 (If) The low-income housing credit program set forth in Section  
10 42 of the Internal Revenue Code.

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

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

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

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

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

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

34 (5) Not less than 20 percent of the low-income housing tax  
35 credits available annually under this section, Section 12206, and  
36 Section 17058 shall be set aside for allocation to rural areas as  
37 defined in Section 50199.21 of the Health and Safety Code. Any  
38 amount of credit set aside for rural areas remaining on or after  
39 October 31 of any calendar year shall be available for allocation  
40 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 shall be modified  
4 as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (s) This section shall remain in effect on and after December 1,  
16 1990, for as long as Section 42 of the Internal Revenue Code,  
17 relating to low-income housing credit, remains in effect.

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

23 *SEC. 3.5. Section 23610.5 of the Revenue and Taxation Code*  
24 *is amended to read:*

25 23610.5. (a) (1) There shall be allowed as a credit against the  
26 “~~tax~~” ~~(as “tax,” as defined by Section 23036)~~ 23036, a state  
27 low-income housing tax credit in an amount equal to the amount  
28 determined in subdivision (c), computed in accordance with Section  
29 42 of the Internal Revenue ~~Code of 1986~~, *Code, relating to*  
30 *low-income housing credit*, except as otherwise provided in this  
31 section.

32 (2) “Taxpayer,” for purposes of this section, means the sole  
33 owner in the case of a “C” corporation, the partners in the case of  
34 a partnership, *members in the case of a limited liability company*,  
35 and the shareholders in the case of an “S” corporation.

36 (3) “Housing sponsor,” for purposes of this section, means the  
37 sole owner in the case of a “C” corporation, the partnership in the  
38 case of a partnership, *the limited liability company in the case of*  
39 *a limited liability company*, and the “S” corporation in the case of  
40 an “S” corporation.

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

3 (5) “Very low-income” has the same meaning as in Section  
 4 50053 of the Health and Safety Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 ~~(G)~~

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

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

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

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

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

32 ~~(1) In the case of any qualified low-income building that is a~~  
 33 ~~new building, as defined in Section 42 of the Internal Revenue~~  
 34 ~~Code and the regulations promulgated thereunder, and not~~  
 35 ~~federally subsidized, the term “applicable percentage” means the~~  
 36 ~~following:~~

37 ~~(A) For each of the first three years, the percentage prescribed~~  
 38 ~~by the Secretary of the Treasury for new buildings that are not~~  
 39 ~~federally subsidized for the taxable year, determined in accordance~~  
 40 ~~with the requirements of Section 42(b)(2) 42(b)(1) of the Internal~~

1 Revenue Code, in lieu of the percentage prescribed in Section  
2 42(b)(1)(A) of the Internal Revenue Code. *Code.*

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

5 (2) *In the case of any qualified low-income building that (i) is*  
6 *a new building, as defined in Section 42 of the Internal Revenue*  
7 *Code and the regulations promulgated thereunder, (ii) not located*  
8 *in designated difficult development areas (DDAs) or qualified*  
9 *census tracts (QCTs), as defined in Section 42(d)(5)(B) of the*  
10 *Internal Revenue Code, and (iii) is federally subsidized, the term*  
11 *“applicable percentage” means for the first three years, 15 percent*  
12 *of the qualified basis of the building, and for the fourth year, 5*  
13 *percent of the qualified basis of the building.*

14 (3) ~~In the case of any qualified low-income building that receives~~  
15 ~~an allocation after 1989 and that is a new building that is federally~~  
16 ~~subsidized or that is an existing building that is “at risk of~~  
17 ~~conversion,” the term “applicable percentage” means the following:~~  
18 ~~that is (i) an existing building, as defined in Section 42 of the~~  
19 ~~Internal Revenue Code and the regulations promulgated~~  
20 ~~thereunder, (ii) not located in designated difficult development~~  
21 ~~areas (DDAs) or qualified census tracts (QCTs), as defined in~~  
22 ~~Section 42(d)(5)(B) of the Internal Revenue Code, and (iii) is~~  
23 ~~federally subsidized, the term applicable percentage means the~~  
24 ~~following:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 *paragraph is ineligible to also receive an allocation under*  
2 *paragraph (3).*

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

4 (B) *The qualified low-income building is serving households of*  
5 *very low-income or extremely low-income such that the average*  
6 *maximum household income as restricted, pursuant to an existing*  
7 *regulatory agreement with a federal, state, county, local, or other*  
8 *governmental agency, is not more than 45 percent of the area*  
9 *median gross income, as determined under Section 42 of the*  
10 *Internal Revenue Code, adjusted by household size, and a tax*  
11 *credit regulatory agreement is entered into for a period of not less*  
12 *than 55 years restricting the average targeted household income*  
13 *to no more than 45 percent of the area median income.*

14 (C) *The qualified low-income building would have insufficient*  
15 *credits under paragraphs (2) and (3) to complete substantial*  
16 *rehabilitation due to a low appraised value.*

17 (D) *The qualified low-income building will complete the*  
18 *substantial rehabilitation in connection with the credit allocation*  
19 *herein.*

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

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

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

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

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

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

39 (C) Any amount allowed to be distributed under subparagraph

40 (A) that is not available for distribution during the first five years

1 of the compliance period may be accumulated and distributed any  
2 time during the first 15 years of the compliance period but not  
3 thereafter.

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

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

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

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

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

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

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

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

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

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

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

14 (g) The aggregate housing credit dollar amount that may be  
15 allocated annually by the California Tax Credit Allocation  
16 Committee pursuant to this section, Section 12206, and Section  
17 17058 shall be an amount equal to the sum of all the following:

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

27 (B) An additional three hundred million dollars (\$300,000,000)  
28 for the 2016 calendar year, and, for the 2017 calendar year and  
29 each calendar year thereafter, three hundred million dollars  
30 (\$300,000,000) increased by the percentage, if any, by which the  
31 Consumer Price Index for the preceding calendar year exceeds  
32 the Consumer Price Index for the 2016 calendar year. For the  
33 purposes of this paragraph, the term “Consumer Price Index”  
34 means the last Consumer Price Index for All Urban Consumers  
35 published by the federal Department of Labor. A housing sponsor  
36 receiving an allocation under paragraph (1) of subdivision (c)  
37 shall not be eligible for receipt of the housing credit allocated  
38 from the increased amount under this subparagraph. A housing  
39 sponsor receiving an allocation under paragraph (1) of subdivision

1 (c) shall remain eligible for receipt of the housing credit allocated  
2 from the credit ceiling amount under subparagraph (A).

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

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

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

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

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

26 (i) Section 42(j) of the Internal Revenue-Code Code, relating  
27 to recapture of credit, shall not be applicable and the following  
28 shall be substituted in its place:

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

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

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

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

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

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

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

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

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

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

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

10 (2) The committee shall adopt a qualified allocation plan, as  
11 provided in Section 42(m)(1) of the Internal Revenue ~~Code~~: *Code*,  
12 *relating to plans for allocation of credit among projects*. In  
13 adopting this plan, the committee shall comply with the provisions  
14 of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue  
15 ~~Code~~: *Code, relating to qualified allocation plan and relating to*  
16 *certain selection criteria must be used, respectively*.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6     *(Id) Programs for rent supplement assistance pursuant to*  
7     *Section 18 101 of the Housing and Urban Development Act of*  
8     *1965, Section 1701s of Title 12 of the United States Code, as*  
9     *amended.*

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

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

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

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

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

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

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

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

38    (5) Not less than 20 percent of the low-income housing tax  
39 credits available annually under this section, Section 12206, and  
40 Section 17058 shall be set aside for allocation to rural areas as

1 defined in Section 50199.21 of the Health and Safety Code. Any  
2 amount of credit set aside for rural areas remaining on or after  
3 October 31 of any calendar year shall be available for allocation  
4 to any eligible project. No amount of credit set aside for rural areas  
5 shall be considered available for any eligible project so long as  
6 there are eligible rural applications pending on October 31.

7 (k) Section 42(l) of the Internal Revenue ~~Code~~ *Code*, relating  
8 to certifications and other reports to secretary, shall be modified  
9 as follows:

10 The term “secretary” shall be replaced by the term “~~California~~  
11 ~~Franchise~~ “Franchise Tax Board.”

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

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

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

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

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

27 (n) The credit period with respect to an allocation of credit in  
28 1989 by the California Tax Credit Allocation Committee of which  
29 any amount is attributable to unallocated credit from 1987 or 1988  
30 shall not begin until after December 31, 1989.

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

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

36 (q) (1) A corporation may elect to assign any portion of any  
37 credit allowed under this section to one or more affiliated  
38 corporations for each taxable year in which the credit is allowed.  
39 For purposes of this subdivision, “affiliated corporation” has the  
40 meaning provided in subdivision (b) of Section 25110, as that

1 section was amended by Chapter 881 of the Statutes of 1993, as  
2 of the last day of the taxable year in which the credit is allowed,  
3 except that “100 percent” is substituted for “more than 50 percent”  
4 wherever it appears in the section, as that section was amended by  
5 Chapter 881 of the Statutes of 1993, and “voting common stock”  
6 is substituted for “voting stock” wherever it appears in the section,  
7 as that section was amended by Chapter 881 of the Statutes of  
8 1993.

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

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

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

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

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

20 (s) This section shall remain in effect on and after December  
21 1, 1990, for as long as Section 42 of the Internal Revenue Code,  
22 relating to low-income housing ~~credits~~, *credit*, remains in effect.

23 (t) (1) *For a project that receives a preliminary reservation*  
24 *under this section beginning on or after January 1, 2016, a*  
25 *taxpayer may make an irrevocable election in its application to*  
26 *the California Tax Credit Allocation Committee to sell all or any*  
27 *portion of any credit allowed under this section to one or more*  
28 *unrelated parties for each taxable year in which the credit is*  
29 *allowed subject to both of the following conditions:*

30 (A) *The credit is sold for consideration that is not less than 80*  
31 *percent of the amount of the credit.*

32 (B) (i) *The unrelated party or parties purchasing any or all of*  
33 *the credit pursuant to this subdivision is a taxpayer allowed the*  
34 *credit under this section for the taxable year of the purchase or*  
35 *any prior taxable year or is a taxpayer allowed the federal credit*  
36 *under Section 42 of the Internal Revenue Code, relating to*  
37 *low-income housing credit, for the taxable year of the purchase*  
38 *or any prior taxable year in connection with any project located*  
39 *in this state.*

1 (ii) For purposes of this subparagraph, “taxpayer allowed the  
2 credit under this section” means a taxpayer that is allowed the  
3 credit under this section without regard to the purchase of a credit  
4 pursuant to this subdivision without regard to any of the following:

5 (I) The purchase of a credit under this section pursuant to this  
6 subdivision.

7 (II) The assignment of a credit under this section pursuant to  
8 subdivision (q).

9 (III) The assignment of a credit under this section pursuant to  
10 Section 23363.

11 (2) (A) The taxpayer that originally received the credit shall  
12 report to the California Tax Credit Allocation Committee within  
13 10 days of the sale of the credit, in the form and manner specified  
14 by the California Tax Credit Allocation Committee, all required  
15 information regarding the purchase and sale of the credit,  
16 including the social security or other taxpayer identification  
17 number of the unrelated party to whom the credit has been sold,  
18 the face amount of the credit sold, and the amount of consideration  
19 received by the taxpayer for the sale of the credit.

20 (B) The California Tax Credit Allocation Committee shall  
21 provide an annual listing to the Franchise Tax Board, in a form  
22 and manner agreed upon by the California Tax Credit Allocation  
23 Committee and the Franchise Tax Board, of the taxpayers that  
24 have sold or purchased a credit pursuant to this subdivision.

25 (3) (A) A credit may be sold pursuant to this subdivision to  
26 more than one unrelated party.

27 (B) (i) Except as provided in clause (ii), a credit shall not be  
28 resold by the unrelated party to another taxpayer or other party.

29 (ii) All or any portion of any credit allowed under this section  
30 may be resold once by an original purchaser to one or more  
31 unrelated parties, subject to all of the requirements of this  
32 subdivision.

33 (4) Notwithstanding any other provision of law, the taxpayer  
34 that originally received the credit that is sold pursuant to  
35 paragraph (1) shall remain solely liable for all obligations and  
36 liabilities imposed on the taxpayer by this section with respect to  
37 the credit, none of which shall apply to any party to whom the  
38 credit has been sold or subsequently transferred. Parties who  
39 purchase credits pursuant to paragraph (1) shall be entitled to

1 utilize the purchased credits in the same manner in which the  
2 taxpayer that originally received the credit could utilize them.

3 (5) A taxpayer shall not sell a credit allowed by this section if  
4 the taxpayer was allowed the credit on any tax return of the  
5 taxpayer.

6 (6) Notwithstanding paragraph (1), the taxpayer, with the  
7 approval of the Executive Director of the California Tax Credit  
8 Allocation Committee, may rescind the election to sell all or any  
9 portion of the credit allowed under this section if the consideration  
10 for the credit falls below 80 percent of the amount of the credit  
11 after the California Tax Credit Allocation Committee reservation.

12 (u) The California Tax Credit Allocation Committee may  
13 prescribe rules, guidelines, or procedures necessary or appropriate  
14 to carry out the purposes of this section, including any guidelines  
15 regarding the allocation of the credit allowed under this section.  
16 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division  
17 3 of Title 2 of the Government Code shall not apply to any rule,  
18 guideline, or procedure prescribed by the California Tax Credit  
19 Allocation Committee pursuant to this section.

20 (s)

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

26 SEC. 4. Notwithstanding Section 10231.5 of the Government  
27 Code, on or before January 1, 2020, the Treasurer shall issue a  
28 report to the Legislature describing the increase, if any, of the use  
29 of the 4 percent low-income housing credit, allocated pursuant to  
30 paragraphs (2) to (5), inclusive, of subdivision (c) of Sections  
31 12206, 17058, and 23610.5 of the Revenue and Taxation Code.  
32 The report shall compare the use of those credits before the  
33 effective date of this act to the use of those credits after the effective  
34 date of this act. The report shall be submitted in compliance with  
35 Section 9795 of the Government Code.

36 SEC. 5. The California Tax Credit Allocation Committee shall  
37 enter into an agreement with the Franchise Tax Board to pay any  
38 costs incurred by the Franchise Tax Board in the administration  
39 of subdivision (o) of Section 12206, subdivision (s) of Section

1 17058, and subdivision (t) of Section 23610.5 of the Revenue and  
2 Taxation Code.

3 SEC. 6. (a) Section 1.5 of this bill incorporates amendments  
4 to Section 12206 of the Revenue and Taxation Code proposed by  
5 both this bill and Senate Bill 377. It shall only become operative  
6 if (1) both bills are enacted and become effective on or before  
7 January 1, 2016, (2) each bill amends Section 12206 of the  
8 Revenue and Taxation Code, and (3) this bill is enacted after  
9 Senate Bill 377, in which case Section 1 of this bill shall not  
10 become operative.

11 (b) Section 2.5 of this bill incorporates amendments to Section  
12 17058 of the Revenue and Taxation Code proposed by both this  
13 bill and Senate Bill 377. It shall only become operative if (1) both  
14 bills are enacted and become effective on or before January 1,  
15 2016, (2) each bill amends Section 17058 of the Revenue and  
16 Taxation Code, and (3) this bill is enacted after Senate Bill 377,  
17 in which case Section 2 of this bill shall not become operative.

18 (c) Section 3.5 of this bill incorporates amendments to Section  
19 23610.5 of the Revenue and Taxation Code proposed by both this  
20 bill and Senate Bill 377. It shall only become operative if (1) both  
21 bills are enacted and become effective on or before January 1,  
22 2016, (2) each bill amends Section 23610.5 of the Revenue and  
23 Taxation Code, and (3) this bill is enacted after Senate Bill 377,  
24 in which case Section 3 of this bill shall not become operative.

25 (d) Section 5 of this bill, which adds an uncodified provision  
26 that requires the California Tax Credit Allocation Committee to  
27 enter a specified agreement with the Franchise Tax Board.  
28 proposed by both this bill and Senate Bill 377, shall only become  
29 operative if (1) both bills are enacted and become effective on or  
30 before January 1, 2016, (2) each bill amends Sections 12206,  
31 17058, and 23610.5 of the Revenue and Taxation Code, (3) each  
32 bill adds the uncodified provision set forth in Section 5, and (4)  
33 this bill is enacted after Senate Bill 377.

34 ~~SEC. 4.~~

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

O