

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

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

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 (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 (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 *(iv) 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 (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