

**ASSEMBLY BILL**

**No. 2817**

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**Introduced by Assembly Member Chiu**

February 19, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2817, as introduced, 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 2017 through 2022, inclusive, would increase the aggregate housing credit dollar amount that may be allocated among low-income housing projects by \$100,000,000, as specified. The bill, under the insurance taxation law, the Personal Income Tax Law, and the Corporation Tax Law, would modify the definition of applicable percentage relating to qualified low-income buildings that meet specified criteria.

This bill would take effect immediately as a tax levy.

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

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

1     SECTION 1. Section 12206 of the Revenue and Taxation Code  
2     is amended to read:  
3     12206. (a) (1) There shall be allowed as a credit against the  
4     ~~“tax”~~ (as “*tax*,” as described by Section ~~12201~~) 12201, a state  
5     low-income housing tax credit in an amount equal to the amount  
6     determined in subdivision (c), computed in accordance with Section  
7     42 of the Internal Revenue ~~Code~~, *Code* except as otherwise  
8     provided in this section.  
9     (2) “Taxpayer,” for purposes of this section, means the sole  
10    owner in the case of a “C” corporation, the partners in the case of  
11    a partnership, *members in the case of a limited liability company*,  
12    and the shareholders in the case of an “S” corporation.  
13    (3) “Housing sponsor,” for purposes of this section, means the  
14    sole owner in the case of a “C” corporation, the partnership in the  
15    case of a partnership, *the limited liability company in the case of*  
16    *a limited liability company*, and the “S” corporation in the case of  
17    an “S” corporation.  
18    (4) “Extremely low-income” has the same meaning as in Section  
19    50053 of the Health and Safety Code.  
20    (5) “Very low-income” has the same meaning as in Section  
21    50053 of the Health and Safety Code.  
22    (b) (1) The amount of the credit allocated to any housing  
23    sponsor shall be authorized by the California Tax Credit Allocation  
24    Committee, or any successor thereof, based on a project’s need  
25    for the credit for economic feasibility in accordance with the  
26    requirements of this section.  
27    (A) Except for projects to provide farmworker housing, as  
28    defined in subdivision (h) of Section 50199.7 of the Health and  
29    Safety Code, that are allocated credits solely under the set-aside  
30    described in subdivision (c) of Section 50199.20 of the Health and  
31    Safety Code, the low-income housing project shall be located in  
32    California and shall meet either of the following requirements:  
33    (i) The project’s housing sponsor ~~shall have~~ *has* been allocated  
34    by the California Tax Credit Allocation Committee a credit for

1 federal income tax purposes under Section 42 of the Internal  
2 Revenue Code.

3 (ii) It ~~shall qualify~~ *qualifies* for a credit under Section  
4 42(h)(4)(B) of the Internal Revenue Code.

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

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

22 (ii) 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 (iii) 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 or an “S” corporation, the  
34 housing sponsor shall provide a copy of the California Tax Credit  
35 Allocation Committee certification to the taxpayer.

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

38 (D) In the case of a failure to attach a copy of the certification  
39 for the year to the return in which a tax credit is claimed under this

1 section, no credit under this section shall be allowed for that year  
2 until a copy of that certification is provided.

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

5 ~~(F) (i) Except as described in clause (ii), for buildings 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, credits may be allocated under this section~~  
9 ~~in the amounts prescribed in subdivision (c), provided that the~~  
10 ~~amount of credit allocated under Section 42 of the Internal Revenue~~  
11 ~~Code is computed on 100 percent of the qualified basis of the~~  
12 ~~building.~~

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

22 (G)

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

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

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

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

39 (A) For each of the first three years, the percentage prescribed  
40 by the Secretary of the Treasury for new buildings that are not

1 federally subsidized for the taxable year, determined in accordance  
2 with the requirements of Section ~~42(b)(2)~~ 42(b)(1) of the Internal  
3 Revenue Code, in lieu of the percentage prescribed in Section  
4 ~~42(b)(1)(A)~~ of the Internal Revenue Code.

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

7 (2) In the case of any qualified low-income building that receives  
8 ~~an allocation after 1989 and that~~ (i) is a new building that is  
9 ~~federally subsidized or that is an existing building that is “at risk~~  
10 ~~of conversion,”~~ building, as defined in Section 42 of the Internal  
11 Revenue Code and the regulations promulgated thereunder, (ii)  
12 not located in designated difficult development areas (DDAs) or  
13 qualified census tracts (QCTs), as defined in Section 42(d)(5)(B)  
14 of the Internal Revenue Code, and (iii) is federally subsidized, the  
15 term “applicable percentage” means for the following: first three  
16 years, 15 percent of the qualified basis of the building, and for the  
17 fourth year, 5 percent of the qualified basis of the building.

18 (3) In the case of any qualified low-income building that is (i)  
19 an existing building, as defined in Section 42 of the Internal  
20 Revenue Code and the regulations promulgated thereunder, (ii)  
21 not located in designated difficult development areas (DDAs) or  
22 qualified census tracts (QCTs), as defined in Section 42(d)(5)(B)  
23 of the Internal Revenue Code, and (iii) is federally subsidized, the  
24 term applicable percentage means the 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) In the case of any qualified low-income building that is (i)  
31 a new or an existing building, (ii) located in designated difficult  
32 development areas (DDAs) or qualified census tracts (QCTs) as  
33 defined in Section 42(d)(5)(B) of the Internal Revenue Code, and  
34 (iii) federally subsidized, the California Tax Credit Allocation  
35 Committee shall reduce the amount of California credit to be  
36 allocated under paragraph (2) and (3) by taking into account the  
37 increased federal credit received due to the basis boost provided  
38 under Section 42(d)(5)(B) of the Internal Revenue Code.

39 ~~(3) For purposes of this section,~~

1     (5) ~~In the term “at risk case of conversion,” with respect to an~~  
2 ~~existing property means a property~~ *any qualified low-income*  
3 ~~building that satisfies meets all of the following criteria:~~  
4 ~~requirements of subparagraphs (A) through (D), inclusive, the~~  
5 ~~term “applicable percentage” means 30 percent for each of the~~  
6 ~~first three years and 5 percent for the fourth year. A qualified~~  
7 ~~low-income building receiving an allocation under this paragraph~~  
8 ~~is ineligible to also receive an allocation under paragraph (3).~~

9     (A) ~~The property is a multifamily rental housing development~~  
10 ~~in which qualified low-income building is at least 50 percent of~~  
11 ~~the units receive governmental assistance pursuant to any of the~~  
12 ~~following: 15 years old.~~

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

18     (ii) ~~The Below-Market-Interest-Rate Program pursuant to~~  
19 ~~Section 221(d)(3) of the National Housing Act, Sections~~  
20 ~~1715l(d)(3) and (5) of Title 12 of the United States Code.~~

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

23     (iv) ~~Programs for rent supplement assistance pursuant to Section~~  
24 ~~101 of the Housing and Urban Development Act of 1965, Section~~  
25 ~~1701s of Title 12 of the United States Code, as amended.~~

26     (v) ~~Programs pursuant to Section 515 of the Housing Act of~~  
27 ~~1949, Section 1485 of Title 42 of the United States Code, as~~  
28 ~~amended.~~

29     (vi) ~~The low-income housing credit program set forth in Section~~  
30 ~~42 of the Internal Revenue Code.~~

31     (B) ~~The restrictions on rent and~~ *qualified low-income building*  
32 *is serving households of very low-income or extremely low-income*  
33 *such that the average maximum household income levels will*  
34 *terminate as restricted, pursuant to an existing regulatory*  
35 *agreement with a federal, state, county, local, or other*  
36 *governmental agency, is not more than 45 percent of the federal*  
37 *insured mortgage on area median gross income, as determined*  
38 *under Section 42 of the property Internal Revenue Code, adjusted*  
39 *by household size, and a tax credit regulatory agreement is eligible*  
40 *entered into for prepayment any time within five a period of not*

1 ~~less than 55 years before or after restricting the date of application~~  
2 ~~average targeted household income to no more than 45 percent~~  
3 ~~of the California Tax Credit Allocation Committee; area median~~  
4 ~~income.~~

5 (C) ~~The entity acquiring the property enters into a regulatory~~  
6 ~~agreement that requires the property~~ *qualified low-income building*  
7 *would have insufficient credits under paragraphs (2) and (3) to*  
8 ~~be operated in accordance with the requirements of this section~~  
9 ~~for a period equal~~ *complete substantial rehabilitation due to the*  
10 ~~greater of 55 years or the life of the property; a low appraised~~  
11 ~~value.~~

12 (D) ~~The property satisfies the requirements of Section 42(e) of~~  
13 ~~the Internal Revenue Code regarding~~ *qualified low-income building*  
14 *will complete the substantial rehabilitation expenditures, except*  
15 ~~that in connection with the provisions of Section 42(e)(3)(A)(ii)(I)~~  
16 ~~shall not apply; credit allocation 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 ~~which, 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 ~~which that~~ shall include the amount of the  
25 capital contributions actually paid to the housing sponsor and shall  
26 not 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 ~~accumulate and be~~ *be accumulated*  
37 ~~and distributed any time during the first 15 years of the compliance~~  
38 ~~period but not thereafter.~~

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

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

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

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

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

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

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

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

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

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

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



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

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

(B) *For calendar years 2017 through 2022, inclusive, an additional one hundred million dollars (\$100,000,000) for the 2017 calendar year, and, for the 2018 through 2022 calendar years, one hundred million dollars (\$100,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2017 calendar year. For the purposes of this paragraph, the term “Consumer Price Index” means the last Consumer Price Index for All Urban Consumers published by the federal Department of Labor. A housing sponsor receiving an allocation under paragraph (1) of subdivision (c) shall not be eligible for receipt of the housing credit allocated from the increased amount under this subparagraph. A housing sponsor receiving an allocation under paragraph (1) of subdivision (c) shall remain eligible for receipt of the housing credit allocated from the credit ceiling amount under subparagraph (A).*

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

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

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

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

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

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

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

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

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

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

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

(E) A provision incorporating the requirements of Section 42 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 the 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. *Code, respectively.*

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

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

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

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

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

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

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

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

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

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

(i) The project serves the lowest income tenants at rents 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 ~~is comprised~~  
8 ~~of~~ are low-income units with three ~~and~~ 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~~,” as  
12 ~~defined by paragraph (3) of subdivision (e).~~ *conversion.*”

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

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

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

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

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

30 (Id) *Programs for rent supplement assistance pursuant to*  
31 *Section 18 101 of the Housing and Urban Development Act of*  
32 *1965, Section 1701s of Title 12 of the United States Code, as*  
33 *amended.*

34 (Ie) *Programs pursuant to Section 515 of the Housing Act of*  
35 *1949, Section 1485 of Title 42 of the United States Code, as*  
36 *amended.*

37 (If) *The low-income housing credit program set forth in Section*  
38 *42 of the Internal Revenue Code.*

39 (ib) *The restrictions on rent and income levels will terminate*  
40 *or the federal insured mortgage on the property is eligible for*

1 *prepayment any time within five years before or after the date of*  
2 *application to the California Tax Credit Allocation Committee.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (4) “*Extremely low-income*” has the same meaning as in Section  
17 50053 of the Health and Safety Code.

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

~~(F)~~

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

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

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

(1) In the case of any qualified low-income building ~~placed that is a new building, as defined in service by Section 42 of the housing sponsor during 1987, Internal Revenue Code and the term “applicable percentage” means 9 percent for each of the first three years and 3 percent for the fourth year for new buildings (whether or not the building is federally subsidized) and for existing buildings; regulations promulgated thereunder, and not federally subsidized, the term “applicable percentage” means the following:~~

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     (A) For each of the first three years, the percentage prescribed  
5     by the Secretary of the Treasury for new buildings that are not  
6     federally subsidized for the taxable year, determined in accordance  
7     with the requirements of ~~Section 42(b)(2)~~ 42(b)(1) of the Internal  
8     Revenue Code, ~~in lieu of the percentage prescribed in Section~~  
9     ~~42(b)(1)(B) of the Internal Revenue Code.~~

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

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

21    (3) In the case of any qualified low-income building that receives  
22    ~~an allocation after 1989 and that is a new building that is federally~~  
23    ~~subsidized or that is (i) an existing building that building, as defined~~  
24    ~~in Section 42 of the Internal Revenue Code and the regulations~~  
25    ~~promulgated thereunder, (ii) not 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) is “at risk of conversion,” federally subsidized, the term~~  
29    ~~“applicable percentage” applicable percentage means the~~  
30    ~~following:~~

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

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

36    ~~(4) For purposes~~ *In the case of this section, the term “at risk of*  
37    ~~conversion,” with respect to any qualified low-income building~~  
38    ~~that is (i) a new or an existing property means a property that~~  
39    ~~satisfies all building, (ii) located in designated difficult development~~  
40    ~~areas (DDAs) or qualified census tracts (QCTs) as defined in~~

1 ~~Section 42(d)(5)(B) of the following criteria: Internal Revenue~~  
2 ~~Code, and (iii) federally subsidized, the California Tax Credit~~  
3 ~~Allocation Committee shall reduce the amount of California credit~~  
4 ~~to be allocated under subparagraph (2) and (3) by taking into~~  
5 ~~account the increased federal credit received due to the basis boost~~  
6 ~~provided under Section 42(d)(5)(B) of the Internal Revenue Code.~~

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

14 (A) ~~The property is a multifamily rental housing development~~  
15 ~~in which qualified low-income building is at least 50 percent of~~  
16 ~~the units receive governmental assistance pursuant to any of the~~  
17 ~~following: 15 years old.~~

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

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

31 (v) ~~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 (vi) ~~The low-income housing credit program set forth in Section~~  
35 ~~42 of the Internal Revenue Code.~~

36 (B) ~~The restrictions on rent and qualified low-income building~~  
37 ~~is serving households of very low-income or extremely low-income~~  
38 ~~such that the average maximum household income levels will~~  
39 ~~terminate as restricted, pursuant to an existing regulatory~~  
40 ~~agreement with a federal, state, county, local, or other~~

1 governmental agency, is not more than 45 percent of the federal  
2 insured mortgage on area median gross income, as determined  
3 under Section 42 of the Internal Revenue Code, adjusted  
4 by household size, and a tax credit regulatory agreement is eligible  
5 entered into for prepayment any time within five a period of not  
6 less than 55 years before or after restricting the date of application  
7 average targeted household income to no more than 45 percent  
8 of the California Tax Credit Allocation Committee: area median  
9 income.

10 (C) The entity acquiring the property enters into a regulatory  
11 agreement that requires the property qualified low-income building  
12 would have insufficient credits under paragraphs (2) and (3) to  
13 be operated in accordance with the requirements of this section  
14 for a period equal complete substantial rehabilitation due to the  
15 greater of 55 years or the life of the property: a low appraised  
16 value.

17 (D) The property satisfies the requirements of Section 42(e) of  
18 the Internal Revenue Code regarding qualified low-income building  
19 will complete the substantial rehabilitation expenditures, except  
20 that in connection with the provisions of Section 42(e)(3)(A)(ii)(I)  
21 do not apply: credit allocation herein.

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

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

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

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

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

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

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 ~~applies~~ *shall apply* in the aggregate  
5 to the partners if the housing sponsor is a partnership and in the  
6 aggregate to the shareholders if the housing sponsor is an “S”  
7 corporation.

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

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

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

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

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

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

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

34 (1) Section 42(h)(2) of the Internal Revenue Code ~~does~~ *shall*  
35 ~~not apply~~ *be applicable* and instead the following provisions ~~apply~~:  
36 *shall be applicable*:

37 The total amount for the four-year *credit* period of the housing  
38 credit dollars allocated in a calendar year to any building shall  
39 reduce the aggregate housing credit dollar amount of the California

1 Tax Credit Allocation Committee for the calendar year in which  
2 the allocation is made.

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

6 (g) The aggregate housing credit dollar amount that may be  
7 allocated annually by the California Tax Credit Allocation  
8 Committee pursuant to this section, Section 12206, and Section  
9 23610.5 shall be an amount equal to the sum of all the following:

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

19 (B) *For calendar years 2017 through 2022, inclusive, an*  
20 *additional one hundred million dollars (\$100,000,000) for the*  
21 *2017 calendar year, and, for the 2018 through 2022 calendar*  
22 *years, one hundred million dollars (\$100,000,000) increased by*  
23 *the percentage, if any, by which the Consumer Price Index for the*  
24 *preceding calendar year exceeds the Consumer Price Index for*  
25 *the 2017 calendar year. For the purposes of this paragraph, the*  
26 *term “Consumer Price Index” means the last Consumer Price*  
27 *Index for All Urban Consumers published by the federal*  
28 *Department of Labor. A housing sponsor receiving an allocation*  
29 *under paragraph (1) of subdivision (c) shall not be eligible for*  
30 *receipt of the housing credit allocated from the increased amount*  
31 *under this subparagraph. A housing sponsor receiving an*  
32 *allocation under paragraph (1) of subdivision (c) shall remain*  
33 *eligible for receipt of the housing credit allocated from the credit*  
34 *ceiling amount under subparagraph (A).*

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

37 (3) The amount of housing credit ceiling returned in the calendar  
38 year. For purposes of this paragraph, the amount of housing credit  
39 dollar amount returned in the calendar year equals the housing  
40 credit dollar amount previously allocated to any project that does

1 not become a qualified low-income housing project within the  
2 period required by this section or to any project with respect to  
3 which an allocation is canceled by mutual consent of the California  
4 Tax Credit Allocation Committee and the allocation recipient.

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

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

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

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

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

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

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

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

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

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

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

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

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

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



1 (3) Notwithstanding Section 42(m) of the Internal Revenue  
2 ~~Code~~, *Code* the California Tax Credit Allocation Committee shall  
3 allocate housing credits in accordance with the qualified allocation  
4 plan 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 ~~is comprised~~  
8 ~~of~~ are low-income units with three ~~and~~ 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~~,” as  
12 ~~defined by paragraph (4) of subdivision (e).~~ *conversion.*”

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

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

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

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

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

30 (Id) *Programs for rent supplement assistance pursuant to*  
31 *Section 18 101 of the Housing and Urban Development Act of*  
32 *1965, Section 1701s of Title 12 of the United States Code, as*  
33 *amended.*

34 (Ie) *Programs pursuant to Section 515 of the Housing Act of*  
35 *1949, Section 1485 of Title 42 of the United States Code, as*  
36 *amended.*

37 (If) *The low-income housing credit program set forth in Section*  
38 *42 of the Internal Revenue Code.*

39 (ib) *The restrictions on rent and income levels will terminate*  
40 *or the federal insured mortgage on the property is eligible for*

1 *prepayment any time within five years before or after the date of*  
2 *application to the California Tax Credit Allocation Committee.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(q) The amendments—Any unused credit may continue to this section made by the act adding this be carried forward, as provided in subdivision apply only to taxable years beginning on or after January 1, 1994. (l), until the credit has been exhausted.~~

(r) This section shall remain in effect on and after December 1, 1990, for as long as Section 42 of the Internal Revenue Code, relating to low-income housing credits, *credit*, remains in effect. ~~Any unused credit may continue to be carried forward, as provided in subdivision (l), until the credit has been exhausted.~~

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

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

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

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

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

(4) “Extremely low-income” *has the same meaning as in Section 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) The low-income housing project shall be located in  
9 California and shall meet either of the following requirements:

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

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) To the extent the allocation of the credit to a partner under  
38 this section lacks substantial economic effect, any loss or deduction  
39 otherwise allowable under this part that is attributable to the sale  
40 or other disposition of that partner’s partnership interest made prior

1 to the expiration of the federal credit shall not be allowed in the  
2 taxable year in which the sale or other disposition occurs, but shall  
3 instead be deferred until and treated as if it occurred in the first  
4 taxable year immediately following the taxable year in which the  
5 federal credit period expires for the project described in clause (i).

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

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

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

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

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

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

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

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

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

3 ~~(F)~~

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

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

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

15 (1) ~~In the case of any qualified low-income building placed that~~  
16 ~~is a new building, as defined in service by Section 42 of the housing~~  
17 ~~sponsor during 1987, Internal Revenue Code and the term~~  
18 ~~“applicable percentage” means 9 percent for each of the first three~~  
19 ~~years and 3 percent for the fourth year for new buildings (whether~~  
20 ~~or not the building is federally subsidized) and for existing~~  
21 ~~buildings; regulations promulgated thereunder, and not federally~~  
22 ~~subsidized, the term “applicable percentage” means the following:~~

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

26 (A) For each of the first three years, the percentage prescribed  
27 by the Secretary of the Treasury for new buildings that are not  
28 federally subsidized for the taxable year, determined in accordance  
29 with the requirements of Section ~~42(b)(2)~~ 42(b)(1) of the Internal  
30 Revenue Code, ~~in lieu of the percentage prescribed in Section~~  
31 ~~42(b)(1)(A) of the Internal Revenue Code. Code.~~

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

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

1 of the qualified basis of the building, and for the fourth year, 5  
2 percent of the qualified basis of the building.

3 (3) In the case of any qualified low-income building that receives  
4 an allocation after 1989 and that is a new building that is federally  
5 subsidized or that is (i) an existing building that building, as defined  
6 in Section 42 of the Internal Revenue Code and the regulations  
7 promulgated thereunder; (ii) not 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) is “at risk of conversion,” federally subsidized, the term  
11 “applicable percentage” applicable percentage means the  
12 following:

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

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

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

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

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

29 (ii) The Below-Market-Interest-Rate Program pursuant to  
30 Section 221(d)(3) of the National Housing Act, Sections  
31 1715l(d)(3) and (5) of Title 12 of the United States Code.

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

34 (iv) Programs for rent supplement assistance pursuant to Section  
35 101 of the Housing and Urban Development Act of 1965, Section  
36 1701s of Title 12 of the United States Code, as amended.

37 (v) Programs pursuant to Section 515 of the Housing Act of  
38 1949, Section 1485 of Title 42 of the United States Code, as  
39 amended.

40 (vi) The



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

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

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

20     (B) ~~The restrictions on rent and qualified low-income building~~  
21 ~~is serving households of very low-income or extremely low-income~~  
22 ~~such that the average maximum household income levels will~~  
23 ~~terminate as restricted, pursuant to an existing regulatory~~  
24 ~~agreement with a federal, state, county, local, or other~~  
25 ~~governmental agency, is not more than 45 percent of the federally~~  
26 ~~insured mortgage on area median gross income, as determined~~  
27 ~~under Section 42 of the property Internal Revenue Code, adjusted~~  
28 ~~by household size, and a tax credit regulatory agreement is eligible~~  
29 ~~entered into for prepayment any time within five a period of not~~  
30 ~~less than 55 years before or after restricting the date of application~~  
31 ~~average targeted household income to no more than 45 percent~~  
32 ~~of the California Tax Credit Allocation Committee. area median~~  
33 ~~income.~~

34     (C) ~~The entity acquiring the property enters into a regulatory~~  
35 ~~agreement that requires the property qualified low-income building~~  
36 ~~would have insufficient credits under paragraphs (2) and (3) to~~  
37 ~~be operated in accordance with the requirements of this section~~  
38 ~~for a period equal complete substantial rehabilitation due to the~~  
39 ~~greater of 55 years or the life of the property. a low appraised~~  
40 ~~value.~~

1 (D) ~~The property satisfies the requirements of Section 42(e) of~~  
2 ~~the Internal Revenue Code regarding~~ *qualified low-income building*  
3 *will complete the substantial rehabilitation expenditures, except*  
4 ~~that in connection with the provisions of Section 42(e)(3)(A)(ii)(I)~~  
5 ~~shall not apply.~~ *credit allocation herein.*

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

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

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

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

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

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

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

28 (2) The limitation on return ~~applies~~ *shall apply* in the aggregate  
29 to the partners if the housing sponsor is a partnership and in the  
30 aggregate to the shareholders if the housing sponsor is an “S”  
31 corporation.

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

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

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

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

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

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

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

20 (1) Section 42(h)(2) of the Internal Revenue Code ~~does~~ *shall*  
21 ~~not apply~~ *be applicable* and instead the following provisions ~~apply~~:  
22 *shall be applicable*:

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

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

31 (g) The aggregate housing credit dollar amount that may be  
32 allocated annually by the California Tax Credit Allocation  
33 Committee pursuant to this section, Section 12206, and Section  
34 17058 shall be an amount equal to the sum of all the following:

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

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

4 *(B) For calendar years 2017 through 2022, inclusive, an*  
5 *additional one hundred million dollars (\$100,000,000) for the*  
6 *2017 calendar year, and, for the 2018 through 2022 calendar*  
7 *years, one hundred million dollars (\$100,000,000) increased by*  
8 *the percentage, if any, by which the Consumer Price Index for the*  
9 *preceding calendar year exceeds the Consumer Price Index for the*  
10 *2017 calendar year. For the purposes of this paragraph, the*  
11 *term “Consumer Price Index” means the last Consumer Price*  
12 *Index for All Urban Consumers published by the federal*  
13 *Department of Labor. A housing sponsor receiving an allocation*  
14 *under paragraph (1) of subdivision (c) shall not be eligible for*  
15 *receipt of the housing credit allocated from the increased amount*  
16 *under this subparagraph. A housing sponsor receiving an*  
17 *allocation under paragraph (1) of subdivision (c) shall remain*  
18 *eligible for receipt of the housing credit allocated from the credit*  
19 *ceiling amount under subparagraph (A).*

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

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

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

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

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

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

3 (i) Section 42(j) of the Internal Revenue Code ~~does~~ *shall* not  
4 ~~apply~~ *be applicable* and the following shall be substituted in its  
5 place:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (iii) *(I)* Existing projects that are "at risk of ~~conversion,~~" as  
40 defined by paragraph (4) of subdivision (e): *conversion.*"

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

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

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

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

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

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

22    ~~(Ie) 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    ~~(If) The low-income housing credit program set forth in Section~~  
26    ~~42 of the Internal Revenue Code.~~

27    ~~(ib) The restrictions on rent and income levels will terminate~~  
28    ~~or 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    ~~(ic) 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    ~~(id) 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    ~~(iv) Projects for which a public agency provides direct or indirect~~  
40    ~~long-term financial support for at least 15 percent of the total~~



1 project development costs or projects for which the owner's equity  
2 constitutes at least 30 percent of the total project development  
3 costs.

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

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

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

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

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

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

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

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

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

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

38 (n) The credit period with respect to an allocation of credit in  
39 1989 by the California Tax Credit Allocation Committee of which

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

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

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

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

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

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

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

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

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

32 (s) This section shall remain in effect on and after December  
33 1, 1990, for as long as Section 42 of the Internal Revenue Code,  
34 relating to low-income housing ~~credits~~, *credit*, remains in effect.

35 ~~(s)~~

36 (t) The amendments to this section made by *Chapter 1222 of*  
37 ~~the act adding this subdivision~~ *Statutes of 1993* shall apply only  
38 to taxable years beginning on or after January 1, 1994, except that  
39 paragraph (1) of subdivision (q), as amended, shall apply to taxable  
40 years beginning on or after January 1, 1993.

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

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